

BAIL AS A TOOL OF OPPRESSION:
A CASE STUDY OF FULTON COUNTY

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ABSTRACT

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Bail As A Tool of Oppression:
A Case Study of Fulton County

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This thesis is a study of the oppressive aspects of the bail system in the United States in general and Fulton County, Georgia in particular. Men and women in America are held in jails and committed to prison life for prolonged periods of time before their trials because they are not able to acquire bail. Often these people are found innocent of any wrong doing.

The problem this study focuses upon is to determine whether or not bail is used as a weapon against the poor, the black and political activists. This study was based upon primary data compiled from the files of the Fulton County Jail. Additionally data was generated from the employment of three major research techniques. The techniques were interviewing, administering questionnaires and a survey of the literature. While conducting interviews,

open ended questions were used in order to obtain meaningful responses from those persons being interviewed. The persons interviewed were judges, lawyers and bondsmen. Basically the same format was used for all interviews.

The sample population was selected mainly from the Fulton County area for both the interviews and the questionnaire. For the questionnaire, the Likert Scale (also called the Summated Scale) was used. This scale provided for the range of response to any given question to be limited to the research question.

The files of Fulton County Jail were surveyed to get an accurate account of bail given to defendants for certain crimes with data stratified as to race, age, occupation and sex of the defendant. The crimes surveyed were first offender cases of murder, armed robbery, theft by taking, prostitution, burglarly, and rape.

The Random Start Regular Interval method of collecting data was employed. Every fourth defendant charged with one of the above crimes was picked for review. This procedure was carried out until enough defendants were collected to make a worthwhile comparative study.

In reviewing the literature and conducting library research, libraries in the Metro-Atlanta area were used. The libraries of Emory University, Atlanta University, Georgia State University, Georgia Institute of Technology, Atlanta Public Libraries, and my personal library were most helpful.

This study is composed of four chapters and a conclusion. Chapter I presents the introduction, methodology, and a review of the literature.

Chapter II gives a historical analysis of the bail system in the United States. The origins of the present bail system is unfolded for the benefit of my readers. Also, in this chapter, an explanation of the nature, purpose, and use of bail is given. Bail was designed to assure that the accused appear for his day in court. However, there are other uses of bail and they are discussed in this chapter. Methods of obtaining pretrial release are surveyed to determine how each method benefits a certain segment of the population. Supreme Court cases pertinent to bail and its administration are included to show the legal foundation upon which the bail system and bondsmen operates.

Chapter III concerns itself with those people benefiting from the administration of bail as well as those people that are victimized from the same. Historical data of bail awarded to Angela Davis, Dr. Martin Luther King, Jr., members of the Black Panther Party, and civil rights demonstrators is presented to show how the system can manipulate bail for the purpose of detaining certain defendants whose ideas are contrary to the status quo.

Chapter IV is a case study of Fulton County, Georgia's administration of bail from June 1974 to June 1976. The

purpose of this case study was to determine if certain segments of the population are discriminated against in regards to the awarding of bail. The findings in the case study were juxtaposed to that of the literature for a comparative analysis.

The final section of this research effort consists of the conclusion of the study. This study concludes that poor people, black and political activists are victimized and discriminated against by the administration of bail in Fulton County, Georgia, in particular, and the United States in general. It further concludes that should a person be detained before trial (because he cannot afford bail), his earning capacity is completely terminated. However, the economic impact does not stop here because his family also suffers. Finally, the study determined that bail set purposely high drained funds of the Black Panther Party and other politically unpopular groups thereby inducing financial instability within these groups and severely hampering their operations.

ACKNOWLEDGEMENTS

This thesis is dedicated to my grandmother, Mrs. Obelia Silver, who is a scholar in her own right, but because of the social, economic and political conditions of her time was not afforded the opportunity for higher education.

I am grateful to my parents for the love, encouragement, and understanding that they have given me throughout my life. I want to thank my wife for withstanding the pressures and hardships that accompanies being the wife of one involved in intensified research. To my mother-in-law, I am also indebted for the encouragement she extended to me during my research.

To Dr. Larry Moss, Captain U. Worthy, Miss Linda Hill and the National Fellowship Fund, I say "thank you" for helping me to complete this research effort.

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CHAPTER I

INTRODUCTION AND METHODOLOGY

Introduction

Throughout American history, people both black and white, have been socialized to believe that this land is the essence of freedom and democracy. Even some parts of legal documents (examples, Preamble to the Constitution and the Declaration of Independence) stress the same point.

From the cradle to the grave the American people are challenged to pledge their allegiance and loyalty to this country and are labeled "radicals" if they do not. However the administration of these documents and laws have proven contrary to the very thoughts of freedom, democracy and equality for all.

There is a dual administration of law, one for the white people and another for black people and other minorities. One must keep in mind that this government in essence is not one of laws but of a few white men that manipulate the laws to maintain their dominant position and culture.

The United States Congress is virtually made up of white men, as is the Judiciary and the Executive branches

of government (the three power centers of the United States government). They are responsible for the laws that govern in the oppressive brutal manner that we experience today. Justice seems to elude the poor, the black, and the friendless because of their status. These people are victimized by "white justice" that prevails throughout the criminal justice system.

This study is primarily concerned with the oppressive mechanism of the bail system. Men and women are held in jails and committed to prison life for prolonged periods of time before their trials, because they are not able to acquire bail. Often these people are found innocent of any wrong doing.

Much of the recent criticism of bail centers on the contention that it openly discriminates against the poor. Moreover, bail is generally set in such a routinely haphazard fashion that what should be informed, case by case judgment, is in fact largely mechanical.¹ As a result, the economic instability of defendants charged with a crime is almost an assurance that they will be detained because of an inability to post bail. The bail system in America determines whether or not a person will be detained or set free between the time of his initial apprehension and his court proceedings.

¹Special Committee on Minimum Standards, For The Administration of Criminal Justice, "Pretrial Release," New York: American Bar Association; 1968, p. 1.

The problem this research effort will be concerned with is to determine if bail is used as a weapon against poor people, the blacks and political activists.

The introduction and the methodology make up Chapter I. Four chapters follows to try empirically to analyze the bail system in its functional processes.

In Chapter II, I will give a historical analysis of the bail system in America. The origin of the present bail system will be unfolded for the benefit of my readers. Also, in this chapter, an explanation of the nature, purpose, and use of the bail will be given. Bail is designed to assure that the accused will appear for his day in court. If there are other uses of bail, however, they will be brought out in this chapter. Methods of obtaining pretrial release will be surveyed and discussed as to how each method will benefit a certain segment of the population. Included in this chapter will be Supreme Court cases that are pertinent to bail and its administration. This will serve as the legal foundation for an analysis of the operations of the bail system and bondsmen.

Chapter III will concern itself with those people victimized by the bail system and those benefitting from the administration of bail. A case study of the effect of the administration of bail had on the Black Panthers, Martin Luther King, Jr., Angela Davis and Hosea Williams will also be presented.

Chapter IV will consist of a case study of Fulton County, Georgia's administration of bail from June 1974 to June 1976, in effort to see who absorbs the greatest punishment and who reaps benefits from the same. Also the results of interviews with judges, lawyers and bondsmen will be analyzed in this chapter and the findings here will be juxtaposed to that of the literature in hopes of discovering any latent shortcomings of the bail system and of the literature on the bail system.

Chapter V will be the conclusion of this research effort. At this junction, alternatives to the present bail system in Fulton County will be suggested.

The hypothesis this research effort is based upon is as follows:

"The administration of bail is used as a social and political weapon against blacks, poor people and against political activists."

Review of the Literature

Paul Wice's Freedom for Sale is a sound reference for the legality of bail and how it fits into the criminal justice system. Moreover, the case studies that Wice presents can serve as a guide in a research effort of this type. One limitation of Wice's work is his failure to point out who benefits from the use of bail and who suffers from the use of bail.

Another book on the subject is Detention Before Trail, by Martin L. Friedland. While specifically a case study of criminal trials in Magistrate Court of Toronto, Canada, this work generalizes in the area of bailbonding. Although this study was made in Canada, it is useful because of the significant parallelism to the bail system in the United States. This book provides a step by step direction for action one must take prior to actually going on trial. From this work a comparative study could be made with the bail system in the United States.

Still another work on the subject is Ransom, by Ronald Goldfarb. Goldfarb has published many articles on the bail² and Ransom concerns itself with the people victimized by the administration of bail, but not in any great depth. A historical analysis of bail is provided which is helpful in laying the foundation for any study concerning bail. Methods of obtaining bail were mentioned but this work failed to assess whether or not the bail system was sufficient to meet the needs of all people regardless to race, caste or class.

Ed Gray authored The Enemy in the Street, which dealt primarily with police malpractices and how police powers

²Some of Goldfarb's articles can be found in the following publications: "New Republic," June 6, 1964; Reader's Digest, May 1964, p. 189, "Kiwanis Magazine," April 1964.

are over exerted. It also included a section dealing with bailbonding which focused primarily upon the excessive bail that was set for members of the Black Panther Party as a result of police action against them. If the author had followed this point with data detailing the political oppression of bail, it would have added to the eye-opening facts this book reveals. Since the primary theme of the book was to critique the police actions and operations, the author evidently saw no need to expand the section which deals with bail.

Daniel Freed's work Bail in the United States gives a historical picture of the bailbonding process and how it works in America. This book provides a good source of data on the subject of bail but is less than objective in that the author clearly believes that the present system of bailbonding meets the needs of all people. The author did, moreover, fail to provide any statistical data concerning the availability of bail for black folks vis-a-vis white folks.

From Arrest to Release by Marshall Hout, attempts to explain the legal procedures involved from the moment a defendant is approached by the arresting officer until his trial, acquiring bail is one of those steps and it is so stated by the author. The author tends to present data to make people aware that criminal proceedings are not simple matters and does not devote much attention to

the bailbonding process. Therefore a great deal of material on the subject of bail was not dealt with.

Sarah Blackburn's White Justice gives some insight on bail for Black Panthers vis-a-vis the ordinary man in the streets. The author makes the case discriminatory treatment of the Panthers but fails to discuss other political activists whose fate led them face to face with the evils of the bail system in America.

In reviewing the literature, I found that the subject of bail has not been treated as much as other aspects of the criminal justice system. In books other than those I have mentioned, authors devote only a small number of pages to the topic of bail and there seems to be a general lack of data on the victims of the bail system and how they suffer as a result of the administration of bail. Federal assistance to poor people was not discussed. All these matters are of vital importance and therefore I will devote my research effort to these areas.

Definition of Concepts

Arrest - the detaining of a person or the deprivation of liberty by legal authority.

Bail - securing the release of a person from legal custody, by undertaking that he shall appear at the time and place designated and submit himself to the jurisdiction and judgment of the court.

Bailbond - an obligation signed by someone promising to pay the amount previously set by the court as bail if a defendant fails to appear in court when required.

Bondsman - a person in business of posting bail for people being detained and accused of committing a crime.

Connected - a term used to describe those people that have illegal or extralegal dealings with the "underworld."

Defendant - a term used to name the party that is brought before the court or is sued by the plaintiff.

Judicial Officer - unless otherwise indicated, any person authorized to bailor release a defendant before trial, sentencing or pending appeal in a United States Court.

Justice - the quality or virtue of being impartial and giving a man his just due socially, lawfully, and constitutionally regardless to color, race or belief.

Offense - any act that is a breech of criminal law.

White Justice - impartial justice administered by the white lawmakers throughout this county to maintain white dominance.

Methodology

This study was based upon primary data compiled from the files of the Fulton County Jail. Additionally, data was generated from the employment of three major research techniques. The techniques were interviewing, administering questionnaires, and a survey of the literature. While conducting interviews, open-ended questions were used in order

to obtain meaningful responses from those persons being interviewed. The persons interviewed were judges, lawyers and bondsmen. Basically the same format was used for all interviews.

The sample population was selected mainly from the Fulton County area for both the interviews and the questionnaires. For the questionnaires, the Likert Scale (also called the Summated Scale) was used. This scale provides for the range of responses to any given question to be limited to the research question. A box was placed before each number on the questionnaire for coding conveniences. When reviewing and summing up the responses, each number of response was placed in the box. This speeded the coding process considerably. In constructing the questionnaire, questions that served as checks on other questions were deliberately asked to assure the researcher of the consistency of the responses given by individuals filling out the questionnaire.

Additionally, with the permission of Captain U. Worthy of the Fulton County Jail, I surveyed the files of this penal institution to get an accurate account of bail given to defendants for certain crimes with data stratified as to race, age, occupation, and sex of the defendants. The crimes I concerned myself with were murder, armed robbery, theft by taking, prostitution, burglary and rape.

I used the Random Start Regular Interval method of

collecting data. Every fourth defendant charged with one of the above crimes were picked for review. This procedure was carried out until I collected enough defendants to make a worthwhile comparative study. Data collected through this effort was analyzed to determine if bail was higher for certain segments of the population. (The result of this research effort can be found in Chapter IV).

Historical data concerning bail for Angela Davis, Dr. Martin L. King, Jr., the Black Panthers, and civil rights demonstrators is presented for a comparison of bail charged for political activists vis-a-vis the ordinary man on the street. If the data in this section show that bail for the above named group is, in fact, higher than for the ordinary man on the street, my hypothesis is correct. Also, if the data in Chapter IV (the case study of Fulton County) show that poor people, blacks and other minorities vis-a-vis wealthy people and white people are charged more bail for committing the same crime, my hypothesis will be further supported.

In reviewing the literature, libraries in the metro-Atlanta area were used to gather information and to conduct library research. The libraries of Emory University, Georgia State University, Atlanta University, Georgia Institute of Technology, Atlanta Public Libraries, and my personal library were most helpful.

CHAPTER II

NATURE AND ORIGIN OF AMERICAN BAIL SYSTEM

The word "bail" in the legal sense relates to determining the legal status of someone charged with a crime pending his trial. An every prominent question in the legal profession is: what is the purpose of bail? Most people are led to believe that bail is used to assure that persons accused of a crime will show up for trial if he is not placed in pretrial detention.

In Ex Parte Milburn, the Supreme Court, in 1935, held that:

"A recognizance of bail, in a criminal case, is took to secure that due attendances of the party accused, to answer the indictment, and to submit to a trial, and the judgment of the court thereof. It is not held for the satisfaction for the offense....but as a means of compelling the party to submit to trial and punishment which the law ordains for his offense."¹

This study seeks to ascertain whether there are alternative uses for the bail other than those traditionally advanced.

Bail has also been defined as a means of acquiring the release of a person from legal custody, by guaranteeing that he shall appear at the time and place designated and

¹Ex Parte Milburn, 34 U. S. 704 (1935).

submit himself to the jurisdiction and judgment of the courts.² Thus, bail is defined, but where did the concept originate?

It can be argued that bail is as old as the history of man, though it may not have existed in its present form. Bail originated in medieval England³ and has its roots in early English law. In the 16th and 17th century, justice was administered by traveling judges who visited a city or circuit during a certain period of the year. If a person accused of committing a crime was caught, he remained in jail until the traveling judge came into the city to conduct trials. The need to establish alternative methods of administering justice arose because of the condition of the jails and the longevity of trials as a result of the traveling judges. Bail, as we know it today, was suppose to be the answer.

At first, sheriffs exercised their discretion to release a person on his own promise to appear for trial or on the promise of a third party that the defendant would appear for trial.⁴ The King, however, had the final say in all cases as to whether or not a person could secure pretrial release by obtaining bail.

²Black's Law Dictionary, (St. Paul, Minnesota: West Publishing Company, 1951), 4th ed, p. 177.

³Report to the National Conference on Bail and Criminal Justice, "Bail in the United States," May 1964, p. 1.

⁴Ibid.

There existed statutes in English law stipulating who could get bail and who could not get bail. Persons committing the crime of murder could not be released on bail unless they got a special pardon from the King.⁵ If a sheriff let the prisoner out on bail, when in fact that prisoner was not eligible for bail, the sheriff would lose his job even though he obtained collateral from the accused.⁶

In the event of the defendant escaping while he was out on the promise of a third party surety, the third party was required to surrender himself.⁷ A defendant that escaped was subjected to harsh punishment if he was caught and therefore there were very few bail jumpers in medieval England.

Bail was a very personal arrangement in medieval England. If the administrator of justice decided to let a defendant have bail, he would do so. If not, the defendant had to remain in jail until his trial date.

The development of bail in the United States was similar in many respects to that of medieval England but was also in many aspects different. The United States Constitution does not specifically state that people should have a

⁵ John Reeves, History of English Law, (New York: Augustus M. Kelly Publishers, 1969) Vol. II, p. 13.

⁶ Ibid., pp. 132-133.

⁷ Report to the National Conference on Bail and Criminal Justice, p. 1.

right to obtain bail. In fact, the only section of the United States Constitution concerning the subject of bail is the Eight Amendment. The Eight Amendment states:

"Excessive bail shall not be required nor excessive fines imposed nor cruel and unusual punishment inflicted."⁸

One must keep in mind that the first ten amendments of the United States Constitution, the Bill of Rights, were written into law after the original writing of the Constitution. Therefore it may be of consequence that the original document did not concern itself with the matter of bail at all.

However, before the ratification of the Bill of Rights, the United States Congress had inserted a section on the subject of bail in the Judiciary Act of 1789. That section states:

"....upon all arrests in criminal cases, bail shall be admitted, except where punishment is death in which case it shall not be admitted but by a Supreme or Circuit Court, or by a Justice of the Supreme Court, or a Judge of a district court, who shall exercise their discretion therein, regarding the nature, and circumstances of the offense, and of the evidence and usage of law..."⁹

The same words, to a degree, are expressed in all but seven of the State Constitutions of the United States.

⁸Leroy Haymen, The United States Constitution, (New York: Scholastic Book Service, 1966), p. 173.

⁹"Judiciary Act of 1789 - Section 33," United States Statutes at Large, VI, p. 91.

One can clearly see the similarities of English bail and some aspects of American bail. Whereas, the King had the power to give bail in capital cases in the medieval bail system, Justices of the Supreme Court have the power along with the President in the American bail system.

One can imagine the problems in early American frontier days if an individual tried his luck at "jumping bail." It would be an extended period of time, at best, before the bailee returned to the custody of the legal authorities. There were many unexplored territories on the frontier in which one who had "jumped bail" could seek refuge. In many cases, men called bounty hunters were either employed by the territory or self employed to track down bail jumpers and return them into the custody of the appropriate legal jurisdiction.

Because of the risk involved, many people became reluctant to sign as third party surety. This called for the development of new techniques to supplement the private surety responsible for seeing that the bailee appeared for trial and legal proceedings. As a result, the bonding institution arose and assumed the function of posting bail. The bondsman put up money on behalf of the defendant to guarantee his appearance in court, thereby setting the stage for pretrial release of the defendant.

If the defendant did not appear for court proceedings, the bondsman stood to lose the money he put up for bond.

Therefore, bondsmen had to develop means to protect themselves from absorbing the financial loss. For this reason, bondsmen in many jurisdictions required indemnification contracts or collateral from the defendants or his relatives to protect themselves from forfeiture losses.¹⁰ The selling of bailbonds soon became a standard feature in the criminal justice system procedures.

As with any other social or political questions, the matter of bail found its way into the halls of the highest court in the United States, the Supreme Court. The debates centered around how bail should be administered and what type of defendants should have access to bail. One such case of historical significance to reach the Supreme Court was Stack vs Boyle.¹¹ In this particular case, the high court made clear several points that underlie the theory of bail as we know it today. First, the main concern is to ensure the bailee's appearance in court. Second, there will be some people more apt to jump bail, but these people should not be denied bail. Third, in accordance with the Eighth Amendment of the United States Constitution, bail should not be excessively high.

¹⁰"Bail: An Ancient Practice Re-examined," 70 Yale Law Journal, 966, 967-8.

¹¹Stack vs Boyle 342 U. S. 1, 4. (1951).

Purpose and Use of Bail

Thus, far, this research effort has presented only the statutory purposes of bail. There also exists arguments suggesting that bail is used to accomplish a variety of other ends, some of which do not coincide with the statutory outlines but go instead beyond these provisions.

Using bail as a guarantee that the defendant will show up for trial is the most often articulated concern of the bail system. The principle behind this objective is that the defendant will appear in court in order not to lose the money which has been posted for his pretrial release, thus reducing the incentive to leave town before his scheduled trial. The worth of this theory has often been challenged as well as the validity of this preconceived notion. The argument advanced here is that the defendant who can afford bail can, in most cases, afford to buy transportation or connections to get out of town. On the other hand, the poor man who can hardly make ends meet and cannot afford to secure a bailbond, in most cases, will not have enough money to secure the means to get out town and therefore is detained while awaiting trial.¹²

Another purpose of bail is the protective objective. The central theme of this objective is to protect society from defendants who are likely to commit additional crimes

¹²This position is advanced by Paul Wice in his book Freedom for Sale, (Heath and Company Publishers, 1974).

or are a threat to the jurors and/or witnesses. The judge has the power to decide if the accused is a threat to the community or will commit another crime. Therefore the judge will either set bail so high that the defendant cannot post bond or will simply refuse to permit bond.

Another, but less frequently used, objective in the denial of bail is rehabilitation. This objective is primarily reserved for juveniles and sometimes first offenders and assumes that if legal authorities give the youth and first offenders a taste of the cruel prison life, it might serve as a lesson to them in the future.

Still another use of bail is as a punitive measure. This method was used against the Black Panther Party's chairman, Bobby Seale, until charges could be brought against him for the Connecticut conspiracy case. Punitive measures are used to detain overly suspicious people who in the eyes of the police have committed a criminal act, but their only problem is a lack of concrete evidence that would be permissible in court. Also this usage of bail allows innocent people to be victimized and therefore subjected to the harsh conditions of pretrial detention. The only thing a defendant in such circumstance has in favor is the fact that the Constitution of the United States guarantees that the authorities can only detain or interrogate a defendant for a certain period of time without formally charging him. If the authorities cannot make the original case stick, they may

sometime charge the defendant with another crime and place an excessive amount of bail on the offense just to detain the individual.

The four above mentioned objectives in denying bail are used in felonies and more serious misdemeanors. However, the bail system has also been used as a pressuring device, more so in misdemeanors than felonies. This process begins with the initial appearance of a defendant before a judge or magistrate. The defendant is made aware by the judge that if he does not have a lawyer (which is the case of many defendants), he will be granted a certain amount of time to secure one. The judge then makes the defendant aware that if he chooses to waive his rights to an attorney, the attorney can take care of this initial appearance and terminate the entire matter.¹³ The defendant, in order to avoid the prolonged activities of the criminal justice procedures, may accept this offer whether he is guilty or innocent. He may get a lesser charge and it is indeed less expense to the court. The essence of this device, then, is the forcing of defendants into waiving their rights to an attorney and thereby clearing the overcrowded and heavily backlogged calendar.

¹³ Paul Wice, Freedom for Sale, (Lexington, Mass: Heath and Company Publishers, 1974) p. 7.

Methods of Obtaining Pretrial Release

(A) Personal Bond

Personal Bond is a method of pretrial release in which, the defendant is released by the judge on the defendant's signature without an outlay of financial capital. This situation occurs when the judge is convinced that the accused individual has sufficient family ties, community ties or a reliable character which will assure that the person will neither leave town or fail to show up for the trial in order to avoid prosecution.¹⁴ Another type of personal bond is third party custody. Third party custody operates similarly to the above, the difference being that the defendant is placed in the custody of persons who agree to be responsible for him and becomes his personal surety. This too is left to the discretion of the judge. There have been various names offered for personal bonds. Some of them being (a) personal sureties, (b) nominal bonds, and (c) personal recognizance release. It is worth noting that this method of pretrial release is used in less serious crimes.

(B) Property Bond

Property Bond is a method of pretrial release in which the defendant, his family or friends put up property as bail in lieu of monetary settlement. According to Paul Wice,

¹⁴American Bar Association Projects on Standards for Criminal Justice, "Pretrial Release," (New York: American Bar Association, 1968), p. 54.

author of Freedom for Sale, Atlanta, Georgia and St. Louis, Missouri most often use this method of pretrial release. The greatest problem with this method is the loss and pain inflicted on families and friends who put their property as bail and the defendant does not appear for the court.

(C) Cash Bail

Cash bail is a method of pretrial release in which the defendant raises the full amount of bond required either through direct payment to the court or through the aid of a bondsman. The amount of money required is supposed to be determined according to the crime committed. Sometimes it is left up to the judge who may or may not use a bail scale.¹⁵ Once the defendant finds out the amount of his bail, if he delivers the money to the court he will get back the entire amount upon his appearance in court. However, if he uses a bondsman, a fee is usually charged and the defendant will not get this money back.

(D) Ten Per Cent Bail Deposit Provision¹⁶

The ten percent bail deposit is a method of pretrial release in which the defendant is required to put up ten per cent of the total face value of the bond in order to be released. If the bond is \$2,000.00, for example, the defendant will only have to put up \$200.00. However, if the defendant

¹⁵A bail scale is a listing of crimes and the amount of money charged for bail according to the offense committed.

¹⁶Illinois, Code of Criminal Procedure, 110-7.

fails to appear in court at the designated time, he owes the court the entire face value of the bond (in the example the amount would be \$2,000.00).

Another provision of this method of pretrial release is as follows: If the defendant appears in court at the appointed and designated time, 90% of his original payment (in the example, it would be 90% of \$200.00 or \$180.00) will be refunded to the defendant and 10% (in the example, it would be 10% of \$200.00 or \$20.00) would be used to cover court cost. The defendant only loses 1% of the original bond if he appears in court and that 1% will cover his court cost. This is an attempt to improve the defendant's chances of pretrial release which also in effect diminishes the necessity of the bondsman with this method of pretrial release, however, if the bondsman finances the bond, the defendant does not get any of the money back.

Procedures of Bail

After a person is arrested and taken into custody, he should be able to obtain pretrial release by posting bond. It may seem to be a simple procedure but it is not. Since many arrests by the police are without a warrant because the arresting officer believes that there is reasonable cause to suspect the defendant of violating the law, the defendant usually has to wait until he is able to appear before a judge or magistrate where his bond will be determined. Then there is a question of how long must a person wait before he can

see the proper authorities to be notified as to the amount of his bail. Most states construe the answer to this question to be "without unnecessary delay."¹⁷ This, in itself, is very vague because of the term "unnecessary delay." What one individual may view as unnecessary the other may view as necessary.

Bail cannot be determined until the person is charged with a specific crime. This gives the police a chance to question the defendant many hours before he can obtain pre-trial release. The only defense a person has over this type of action is to secure a writ of habeas corpus (forbidding unlawful detention).

"Fixed Bail" schedules allows police and other nonjudicial officers to set bail. This would require glancing over a chart with crimes and rate of bail for each crime. This helps the defendant secure a speedy pretrial release. Of course, the seriousness of the crime determines how quickly pretrial release can be obtained. Bail is also determined by the nature of the crime, whether or not this is the first or second offense and whether or not the person lived in the place the crime was committed.

Supreme Court Cases Revelant to Bail

Issues concerning bail have gone before the courts for settlement. These issues related to forfeitures, remissions

¹⁷Wice, Freedom for Sale, p. 21.

and indemnitors. As was previously noted in Stack vs Boyle, the main purpose of bail is to ensure the appearance of the bailer in court and that in accordance with the Eighth Amendment of the United States Constitution bail should not be excessively high.

An 1873 case, Taylor vs Taintor¹⁸ stated that sureties may personally, or through an agent, arrest the offender to surrender him to authorities. They may pursue him into another state and arrest him on any day of the week.

Expanding the boundaries of surrender and arrest of bailees was a case in 1923, Ex Parte Salinger.¹⁹ The ruling in this case was such that though one receiving bail remains, in a sense, in custody of the law, he is more particularly in the immediate custody of his sureties. Forfeiture of the bond authorizes them to arrest him, if necessary by breaking and entering anywhere in the United States.

Questions concerning the inability of defendants to appear in courts at the designated time because of illness came before the court also. In People vs Calvert,²⁰ the court ruled that should a defendant miss his appearance in court because of illness that forfeiture will be left up to the discretion of the judge. However, the issue went a step

¹⁸Taylor vs Taintor 83 U. S. 366, Connecticut (1873).

¹⁹Ex Parte Salinger 288 F 752, New York (1923).

²⁰Peoples vs Calvert 227 P (2nd) 834, California.

further and stated that justice does not require forfeiture in such cases and trial courts should never abuse its discretionary powers. In essence, this ruling meant that a judge had the power to determine whether or not a defendant could use illness as an excuse for not appearing in court. If the judge decided that the illness was serious enough, he could elect not to forfeit the bond and could grant another trial date depending upon when the defendant was well enough to appear in court. Another case that reinforced this notion is United States vs Smaldone.²¹

Defendants obtaining pretrial release through a bonding agency may choose to leave town in order to avoid prosecution. Of course, the bonding company loses money if this occurs. Therefore, bondsmen carried the matter before the courts to acquire legal authority to return bail jumpers. This was accomplished in 1931, in Fitzpatrick vs Williams,²² a Louisiana case. The court ruled that agents could arrest defendants in another state and return them to the state in which the bond requires their presence. This could be done without resorting to extradition according to the ruling of the court.

These are a few very important cases concerning bail-bonding. They set the boundaries within which any bonding agent and the bail system may operate. As always, questions

²¹United States vs Smaldone 211 F 161 Colorado 1954.

²²Fitzpatrick vs Williams 46 F 40 Louisiana 1931.

of vital importance come before the court in order that the court can render final judgment, and so it was with the matter of bail and bailbonding.

CHAPTER III

THE VICTIMS AND BENEFICIARIES OF THE BAIL SYSTEM

Arthur Beeley, in commenting on the Chicago bail system made a statement that describes bail systems throughout the United States. The following was his statement:

"The present system of bail, in too many instances neither guarantees security to society nor safeguards the rights of the accused. The system is lax with those with whom it should be stringent and stringent with those it could safely be less severe..."¹

This is not the universal thought of those men and women administering bail in the United States. Therefore there will be some individuals that are victimized by the administration of bail and there will be others that will reap benefits from the administration of bail.

The Poor and Minorities

There is a structural inequality built into our law which works to the detriment of the poor and non-white (Often they are the same but this is not always the case) because this structural inequality represents a confluence of caste and

¹ Arthur Beeley. The Bail System in Chicago, (Chicago: The University of Chicago Press, 1966), p. 160.

class bias in the law.² Systems which place or keep poor and non-white in their position of inferiority or disadvantaged, using not race itself as the subordinating mechanism, but instead other mechanisms indirectly related to race, are properly designated "institutional racism," and are bound in the laws.³

The bail system as we know it today seems to discriminate against the poor and non whites. Bail may range from \$10.00 to an enormous amount, but if one does not have access to the money needed, he cannot post bond. The rich can afford to post their bond and the poor cannot afford the premium for bail bond. As a result, the poor go to jail while the rich go home to await trial. The poor man has to go to jail and at this point is not convicted of any crime. However, he is detained, often in conditions that are worse than those afforded to convicted criminals.⁴ The defendant is also isolated from his family, friends and his attorney. Often he has to appear for numerous court hearings and then return to jail.⁵

The economic factors do not stop at this point. If an individual is locked in a jail because he cannot afford to post bond, his capacity for earning money is completely

² Robert Lefcourt, Law Against the People, (New York: Random House Press, 1971), p. 50.

³ Ibid., p. 51.

⁴ Johnathan Casper, American Criminal Justice: The Defendant's Perspective, (New Jersey: Prentice Hall, Inc., 1972), p. 66.

⁵ Ibid.

terminated. His job is sometimes terminated and then he not only suffers but so does his family and loved ones. People in the community have a tendency to look upon pretrial detention with a narrow minded view. Friends and neighbors often have fixed judgments that the person being detained is guilty based upon the pretrial detention of the defendant. All this judgment is passed before the defendant is actually brought to trial.

A study by Ronald Goldfarb showed that Grand Juries have dismissed charges against defendants out on bail more often than they have charges against defendants held in jail.⁶ Another interesting note this study brought out was the fact that more jailed defendants were convicted at the trial as opposed to those out on bail and those out on bail received more suspended sentences. Goldfarb noted in this study that fifty-five percent of those jailed were acquitted and therefore were detained for no other reason than being poor. It is likely that defendants brought into a courtroom from the jail cells after spending a period of time there and escorted in and out of the courtroom by marshalls bears a stigma before the court and jury which is not shared by the defendant who comes into the courtroom well groomed and accompanied by his attorney.⁷

⁶Ronald Goldfarb, Ransom, (New York: Harper and Row Publishers, 1965, p. 33.

⁷Ronald Goldfarb, "The Great Bail Scandal," The New Republic, 6 June 1964, p. 15.

The criminal justice system is clearly inequitable for promoting this type of injustice and also loses money as a result of the administration of bail. The bail system is self-defeating economically speaking. The cost of the tax payers for the maintenance of jails and other pretrial detention centers is enormous and a waste of millions of dollars each year.⁸

Gertrude Samuels in the New York Time Magazine asked:

"How can it be that members of Brooklyn's notorious Gallo gang, who were charged with murdering a policeman in the course of a gang war, were released on bail, while at the same time in that same city seventeen and eighteen year old defendants were kept in jail over a year because they could not afford bail?"⁹

The two teenagers were acquitted but only after spending a great deal of time in jail awaiting only to be tried.¹⁰ This sort of thing happens quite frequently in the United States. The teenagers described above, along with many other innocent people, were subjected to the conditions of incarceration for pretrial detention. They were often placed in the same cell as hard core criminals and are therefore subjected to mental and physical harm.

Another group of people the administration of bail punishes are so-called subversives and disloyal citizens. Even though a person is legally innocent until proven guilty,

⁸Ronald Goldfarb, Ransom, p. 33.

⁹Ibid.

if he is faced with a subversive charge he often gets the book thrown at him.¹¹ The Civil Rights demonstrators to a certain degree were considered within this classification.

The established order of the South, including judges, police, lawyers, and bondsmen were unwilling to countenance Civil Rights demonstrations and were dead set upon maintaining the white supremacy system. Consequently, they often combined to fight the freedom movement and used bail as one powerful weapon with which to prosecute that fight.¹² Many people who demonstrated for their legal and civil rights were thrust into jail and given high bail. Most of them were black and poor and a vast majority of them were students.¹³ Therefore they were not able to post even the smallest amount of bail. Many of the defendants had bail set at \$2,500, others at \$50,000 and still others up to \$200,000 for different offenses that occurred during riots and demonstrations.¹⁴ The majority of those charged with offenses could not post bond and therefore were detained before their trial for long periods of times.

The National Association for the Advancement of Colored People posted bail for demonstrators at one time but soon

¹¹Ronald Goldfarb, "The Great Bail Scandal," The New Republic, 6 June 1965, pp. 15-16.

¹²Goldfarb, Ransom, p. 60.

¹³Report of the National Advisory Commission on Civil Disorders, Otto Kerner, Chairman (New York: Bantam Books, Inc., 1968), pp. 340-341.

¹⁴Ibid.

realized that this limited the funds available for the defense of the accused. Thus the defendants turned to other methods to secure bail money or simply stayed in jail. Businessmen, civic leaders and churches posted bail in some cases but soon found that their money was tied up for long periods of time due to substantial delays in the trials. This practice systematically eliminated this outside help. In some cases, however, defendants were able to post bond but additional charges were brought up and bail was set on each one. This, in actuality, made pretrial release an unattainable goal.

Black Political Activists

The Eighth Amendment of the United States Constitution provides guarantees against excessive bail and the Supreme Court has ruled that the only function of bail is to help guarantee the appearance of the defendant in court.¹⁵ But the denial of bail is most often used against the defendant to "teach him a lesson" and to "protect the community."¹⁶ This fact has been most spectacularly revealed in the exorbitant ransoms courts have required for pretrial release of black political prisoners.¹⁷

¹⁵See 1835 Supreme Court Case Ex Parte Milburn.

¹⁶Caleb Foote, "A Study of Administration of Bail in New York University of Pennsylvania Law Review Volume 106 (1958) p. 633.

¹⁷Lefcourt, Law Against the People, p. 51.

One organization that fell prey to manipulation of the bail system was the Black Panther Party. This organization was founded in 1966, in Oakland, California by Huey Newton and Bobby Seale.¹⁸ At the outset, the Black Panthers adhered to the revolutionary nationalistic program which predicated the advancement of black Americans on their ability to create autonomous black communities in the United States. The basic belief and desires of the Black Panther Party were clearly expressed whenever a member spoke. However, the essence of their desires could be found in their "Ten Point Platform" and from the party's inception, they stressed "point seven" of their ten point platform. Point seven was as follows:

"We want an immediate end to police brutality and murder of black people."¹⁹

Black communities in Oakland, California had voiced disapproval of police brutality and felt that the black residents were being treated unjustly verbally, physically, and mentally. Harrassment by police included stop and frisk, unlawful searches, and simple discourtesy. The Panthers sought to rid the community of such overt acts against black people by forming a Panther patrol.²⁰ The Panther patrol

¹⁸Gene Marine, The Black Panthers (Chicago: Rampart Press, 1969), pp. 32-34.

¹⁹Huey Newton, To Die for the People, (New York: Random House Press, 1972), p. 4.

²⁰United States Congress, House Committee of Internal Security, Gun Barrel Politics: The Black Panther Party, 1966-1971, Hearings Before a Subcommittee and Internal Security, 92nd Congress, 1st session, 1971, Washington: Government Printing Office.

had a terrifying effect upon the Oakland community, primarily because the white establishment apparently found something particularly frightening about black men with guns. The unspoken logic and understanding is that a black man armed is angry and he is most likely motivated by rage that will very likely render him insane and thus more likely to shoot in blind and unreasonable hostility.²¹

As a result of the Panthers' actions, they were arrested and had to come face to face with the bail system. Many of the key members of the Black Panther Party were given high bail after being arrested. Sometimes, their only crime was that of being a "Panther." In December, 1969, a great number of Panthers were arrested at one time and charged a great amount of bail. Ninety percent of the charges on those arrested were dropped, but the exorbitant bail charged continuously depleted the Black Panther funds.²²

Still another incident in which the Panthers were victimized by the bail system was the New York Panther 21 Conspiracy case. In this case, members of the Panther organization were charged with conspiring to bomb police stations, department stores, rail roads, the Bronx Botanical Gardens and attempting to murder policemen.²³ Bail for each Panther

²¹Gilbert Moore, A Special Rage (New York: Harper and Row, 1971), pp. 54 and 55.

²²Bobby Seale, Seize the Time, (New York: Random House Press, 1970), p. 370.

²³Robert Lefcourt, Law Against the People, p. 185.

arrested in this particular case was set at \$100,000.²⁴ The judge denied almost every defense motion before and during the trial to lower the prohibitively high \$100,000 bail set for the defendants.²⁵ The defendants were detained in prison for over a year only to be found innocent of any wrong doings by a jury consisting of five Blacks, one Puerto Rican, and six whites on May 13, 1971.²⁶

The Panthers had another financial set back as a result of the administration on bail. The background information for this event centers around the Panther's march on the California State Capitol in protest of the proposed gun legislation aimed at prohibiting them from carrying firearms. The Panthers were armed at the time they went to Sacramento to voice their objections and were arrested. Bail was set at \$2,200 each for twenty four members that took part.²⁷ A bail trial was held in effort to lower the previously set bail but the judge ruled that the bail would not be lowered because of their previous records.²⁸

The system sought to rid key Panther leadership by arresting them for anything they could. Huey P. Newton,

²⁴ Ibid., p. 186.

²⁵ Lefcourt, Law Against the People, 186.

²⁶ Ibid.

²⁷ Bobby Seale, Seize the Time, p. 177.

²⁸ Seale, Seize the Time, p. 173.

minister of defense, was arrested and jailed for the fatal shooting of John Frey, an Oakland police officer. Reports showed that Newton was acting in self-defense but authorities disregarded these reports.²⁹ Huey was held without privilege of bond because he was charged with first degree murder. Huey was instead found guilty of third degree murder (voluntary manslaughter).³⁰ Newton was not given privilege of bond even though people convicted of third degree murder were suppose to be able to obtain bail.³¹ Judge Friedman would not allow Newtown to have bail. Therefore Newton had to stay in San Luis Obispo prison until his case went to a higher court.

In another effort to use the bail system to systematically eliminate the Panthers' key leadership. Elridge Cleaver was victimized. Cleaver was arrested but not formally charged. Yet bail was set at \$50,000.³² Judge Raymond Sherwin of Salano County released Elridge Cleaver on the grounds that he was being held solely for political reasons, that he was, in fact, a political prisoner.³³ It was not long before a higher court overturned Judge Sherwin's decision to release

²⁹Reginald Major, A Panther Is A Black Cat, (New York: William Morrow and Company, 1971), pp. 179-180.

³⁰Seale, Seize the Time, p. 243.

³¹Ibid.

³²Don Schanche, "Panthers Against the Wall," The Atlantic: Volume 225, 16 May 1969, pp. 58-59.

³³Seale, Seize the Time, p. 256.

Eldridge from the Vacaville State Prison Facility and Cleaver was informed that he had to return to prison.³⁴ Rather than return to prison Cleaver fled the country.

The Chairman of the Black Panther Party, Bobby Seale, also had dealings with the bail system. Seale was arrested and charged with conspiracy to kidnap and murder in regards to a Connecticut incident. The authorities did not have a warrant at the time of the arrest. Bail was set at \$25,000 and Seale and his lawyers argued that this was too high.³⁵ They felt that since Seale had never before fled to avoid prosecution and because he was constantly in the public's eye making speeches and holding press conferences, bail should be lowered. Of course this motion was denied.

Excessively high bail was used to tie up the Panthers' money and deplete their funds. This can be clearly denoted in the above cases. Still another example can be cited to further substantiate this point. After the Panthers had successfully raised \$10,000 in a "Free Huey" rally for Newton's defense, members of the party were arrested on charges that were later droppped by Judge Lionel Wilson because the arresting officer did not report true facts.³⁶ These

³⁴Ibid., p. 257.

³⁵Ibid., p. 294.

³⁶Seale, Seize the Time, p. 225.

arrests were no doubt an attempt to deplete the previously raised \$10,000.³⁷ With a careful view, one can clearly see how "white justices" systematically used arrest tactics to deplete the funds of the Black Panther Party.

Peace bonds were used against political activists also. This technique was used against Hosea Williams when he went to Savannah, Georgia to lead a demonstration.³⁸ A local white woman swore out a warrant against Williams asking the court to issue it on the grounds that Williams' conduct presented a future threat to her person, property and security. Hosea was required to post bail to assure his good behavior. He posted the required bailbond of \$2,500, but the situation did not stop here. More people in the community swore out complaints and consequently Williams had to post bail for each complaint \$2,500 a complaint. Needless to say, Hosea ran out of money and ended up in jail.

Also in 1974, Williams was arrested in Fulton County, Georgia, and charged with inciting a riot and criminal damage to government property. The bail set was \$1,100 and \$1,500 respectively.³⁹ Williams was subjected to arrest at the hands of law enforcement officers across the South and bail was set

³⁷ Seale, Seize the Time, p. 224-225.

³⁸ Goldfarb, Ransom, p. 79.

³⁹ Information gathered from the files of the Fulton County Jail.

very high in order to detain him for a long period of time. Williams was aware of the technique being used against him and there was nothing he could do. Yet it did not stop his efforts in the struggle for civil rights.

Angela Davis became a public figure because of her political views. She announced that her political preference was Communist and as a result the Board of Regents tried to fire her from her professorship at U. C. L. A.⁴⁰ Angela became interested in the plight of political prisoners (examples, Seale, Newton, and the Soledad Brothers) and voiced her dislike for the penal institutions across the United States. She became closely associated with Jonathan and George Jackson⁴¹ and concerned with their defense.

At a trial in Marion County in 1970, guns were smuggled into the courtroom and as a result Judge Harold Haley and three other people were fatally wounded. Angela Davis was arrested for allegedly playing a part in smuggling the guns to the scene of the incident. Consequently, she was charged with conspiracy to commit murder, aiding and abetting rescue and escape and was held without bail.⁴² She left town because her "fear of the authorities." Additionally, she was charged with flight to avoid prosecution.

⁴⁰Reginald Major, Justice in the Round, (New York: Okpaka Publishing Company, 1973), pp. 34-45.

⁴¹Ibid., p. 47.

⁴²Ibid., p. 50.

and placed on the "Ten Most Wanted List" of the FBI. Bail for this offense was set at \$250,000.⁴³

Miss Davis was put in a cell with no sunlight to further humiliate her. After a series of long and furious court proceedings which stirred up the emotions of people across the nation, and after a "Free Angela" campaign, she was acquitted on all accounts on June 4, 1972.⁴⁴ The high bail was set in hopes that Miss Davis would not be able to raise it and thus remain detained.

Still another individual whose fate led him face to face with the bail system because of his political philosophy and active works for civil rights was Dr. Martin Luther King, Jr. From the moment he stepped forward to lead the Montgomery Bus Boycott until his death in Memphis, King was repeatedly jailed and bail was set punishingly high. Dr. King was sentenced many times for misdemeanors such as parading without a permit, illegal assembly, and disturbing the peace.⁴⁵ Actually he was only demonstrating for his basic civil and human rights. Often King was put in jail with vagrants, drunks and serious law breakers.⁴⁶

⁴³ Ibid., p. 110.

⁴⁴ Major, Justice in the Round, p. 314.

⁴⁵ Major, Justice in the Round, p. 2.

⁴⁶ Martin Luther King, Jr., Stride Toward Freedom, (New York: Harper and Row Publishers, 1964). p. 109.

On January 26, 1956, in Montgomery, Alabama, King was leaving a meeting with some of his associates and noticed that three police officers were following them. He made every effort to obey all traffic laws because he felt they were waiting for an opportunity to harrass him. After he let his passengers out, he was soon stopped by the police officers and falsely charged with speeding thirty miles an hour in a twenty miles zone.⁴⁷ As soon as Reverend Abernathy found out that Dr. King had been detained, he tried unsuccessfully to seek his release.⁴⁸

On February 17, 1960, Dr. King was arrested in Atlanta on an Alabama warrant following his indictment by Montgomery County Grand Jury. He was charged with two counts of perjury in connection with the filing of 1956 and 1958 state income tax returns and bond was set at \$2,000.⁴⁹ In connection with a "sit in" in Atlanta, King was charged with violating the state's anti-trespass law and no bond was set.⁵⁰ He was transferred from Fulton County Jail to DeKalb County Jail and given four months in jail by a DeKalb County Judge. The judge ruled that Dr. King's participation in the "sit in" violated

⁴⁷Ibid., p. 108

⁴⁸Ibid., p. 110.

⁴⁹Lerone Bennett, Jr., What Manner of Man, (Chicago: Johnson Publishing Company, 1968), p. 244.

⁵⁰Ibid.

terms of his probated traffic sentence.⁵¹ He was then transferred to Reidsville State Prison and appeal bond was set at \$2,000.⁵²

The only reason for King's repeatedly being arrested and given high bailbonds was simply because of his civil and political activity, as was the case of Davis, Newton and Seale. The white power structure has used arrest and bail to try to wipe out those participants in the civil rights movement. This type of thing should not take place in a nation that claims to be a democracy. However one cannot deny the fact that this does take place in America. Bail in many instances has not been used to assure the appearance of the defendants, instead it has been used to oppress the poor and suppress the activities of political activists.

Bondsmen

Thus far, I have cited instances in which the bail system has been used to victimize certain segments of the American population. At this juncture, I'd like to focus attention on the beneficiaries of the present administration of bail. In the case of the bail system, it is clear that bondsmen reap benefits. They charge rather high rates for their

⁵¹Ibid.

⁵²Lerone Bennett, Jr., What Manner of Man, p. 244.

services, but price is the last thing on one's mind when one has a choice between freedom and imprisonment.

Judge J. Wright of the United States Court of Appeals has stated, "Bondsmen hold the key to the jail in their pockets."⁵³ The rationale of his statement was that if a bondsman chooses not to post bail for a "bad risk" or for people who cannot afford bail, they ultimately end up in jail. The law requires the judge to set bail. It does not, however, require the bondsmen to put up bail.⁵⁴ Even if the defendant is a so-called "good risk," the bondsman may refuse to post bond for any reason he so desires.

In many of the civil rights cases, some bondsmen would have provided bail, (their economic interest being stronger than their social ideals) but did not because of conflicting business pressures.⁵⁵ The bondsman reserves the right to either grant or deny his services to the defendant.

Even though the government regulates the rates bonding agencies can charge, they get around this with a few tricks of the trade such as charging a minimum fee no matter what the amount of bail may be. Also, they may charge extra for

⁵³Murray Bloom, "Must It Be Bail or Jail," Reader's Digest, May 1964, p. 189.

⁵⁴Ronald Goldfarb, "The Great Bail Scandal," The New Republic, 6 June 1964, p. 16.

⁵⁵Ibid.

night duty, charge service fees and even sell bonds on credit with high interest rates attached. The bondsman may not have any personal feelings for the defendant and in many cases do not have any personal contact with the defendant before trial. In most cases, they only send a message reminding the individual to show up for trial and follow it up with a telephone call.

The bonding institution is criminally infiltrated. By this I mean policemen and judges often recommend a certain bondsman to a defendant and in return they get a certain percentage of the bondsmen's profit. In 1961, a Jack County Missouri grand jury found that most bondsmen paid police 20% of their fees for referring defendants to them.⁵⁶ In Cincinnati, Ohio, Municipal Court Clerks were accused of receiving 30% of the bondsmen's profit.⁵⁷ The Clerk not only called their favorite bondsmen, but saw to it that the bondsmen were not required to pay full amounts of forfeited bonds. The "under world" has a great deal of interest in bailbonding and is trying to take it over.⁵⁸ If justice is to be distributed equally, there must be another method of administering the same.

⁵⁶Murray Bloom, "Must It Be Bail or Jail," Congressional Records, May 14, 1964, 10515-16.

⁵⁷Ibid.

⁵⁸Ronald Goldfarb, Ransom, p. 104.

A sizable body of data is available that described the bondsmen in physical and emotional terms. The data described bondsman as inhumane and not well educated. Partly, in order to check the accuracy of this portrait, I decided to go out into Fulton County to interview bondsmen of various bonding companies.⁵⁹

The first company I visited was the Atlantic Bonding Company. The office was dull and dreary. The furniture in the office consisted of two hard, wooden chairs and an old, bare, oak desk. From the moment I entered the establishment, I could sense an atmosphere of coldness.⁶⁰

The agent relayed to me that the process of bonding began with a phone call from the person accused of a crime or a visit to the jail by an agent. The agent explained his definition of "good risk" and "bad risk" potential bondmakers. He described a good risk as a defendant who owned property, have lived in the city for a substantial number of years and have good working habits. On the other hand a bad risk was an unemployed, non-property owner or a person from another state.

Data received from the agent shows that this bonding company was operating under the Georgia state law which

⁵⁹All interviews took February 20, 1976.

⁶⁰I did not request agents' names in hopes of securing more information.

regulated the cost of selling bailbonds. The law states that a fee of 10% can be charged for the first \$500 and 5% there after, (if you were under a \$1,000 bond, you would be charged \$75 if the agent represented you). Money paid to a bondsman is never returned to the party making the bond. This bond is an appearance bond and after the accused appears for trial, the bondsman is relieved of all his responsibility.

On the subject of defendants that do not appear for trial, the agent informed me that their company had a special agent called a "catch man" or "bounty hunter" to recapture the person who jumped bail. While I was interviewing the bondsman, one of the "catchmen" came in and proceeded to volunteer information.⁶¹ He appeared to be a "redneck" with little or no education. His body structure was tall and heavy set and he was very loud. He said it was his job:

"to catch the no good son of a bitches that jumped bail and kill 'em dead if I had to do so."⁶²

He went on to say the following:

"I would do the same thing if it was a case involving my mother or brother...my job is to return the....so the company won't lose money."⁶³

⁶¹I did not consult the catch man, but after he began to volunteer information I took notes on his statements.

⁶²Verbatim transcription of catch man's comments on February 20, 1976 during my visit to the Atlantic Bonding Company.

⁶³Ibid.

The bondsman then broke in and asked me if I had any more questions. At this point, I asked him the method his company used to notify the bondmaker to appear in court on the previous set date. He said "by a letter and then a follow up telephone call." On this note, I thanked him and went next door to Cagle Bonding Company.

The Cagle Bonding Company was, as opposed to the Atlantic Bonding Company, a black establishment. The scene and atmosphere was quite the same as that I had just experienced next door. This time, however, the agent of Cagle Bonding Company refused to talk to me concerning his business. So I politely thanked him and went further down Decatur Street to the Ace Bonding Company.

I had to drive up a long bricklaid driveway to get to the Ace Bonding Company's office. The atmosphere of this place was even worse than the previous two. This office was a part of a very old warehouse and the office was the only part remodeled for human habitation. Upon entering the office, I saw a smiling male caucasian sitting behind a large but empty desk. I introduced myself and explained my reason for being there. When the man found that I was not there to secure a bond, his expressions had a very noticeable change. He then proceeded to tell me that there was nothing he could tell me concerning his business. Two "strikes" in one block, but I was determined not to strike out. So I left Ace and went further down the street to the

King Bonding Company.

This time the atmosphere was different and the employees of this establishment were very willing to co-operate and offered any information I asked of them. The agent answered the questions in the same manner as the agent from the first bonding company I had interviewed. However, the agent emphasized that each case was different. He compared the bonding company to a bank that loaned money. The procedure as to screening the bondmaker would be much the same as if it was a banker checking credit before he made a loan. This agent brought up the term "extended credit" into our conversation. His definition of extended credit was giving bond on a promise to pay at a future date. He said this was a common practice for his bonding company on weekends and holidays when defendants do not have access to their bank accounts or cannot cash checks. He stated that this also would aid defendants who could not afford to make bond, but had a job and were stable in the community.

The agent claimed that his company did not charge any interest on this money. I found this to be amazing and wondered as to the validity of that statement. He stated that his company made it a policy not to make bond for drug pushers and prostitutes because they were most likely to jump bail.

Another bit of interesting data he gave me was concerning the "catch men." According to the agent, his company sent white "catch men" at white bail jumpers and black

"catch men" at black bail jumpers. The reason for this was an effort to eliminate racial harrassment. Also the agent said his company served more black people than white people.

The interview with the King Company was indeed a change from the previous two I attempted to carry out. After I left this company, I went down the street to what would be my final interview of the day. This next interview was also rewarding for gathering information. Since the data given was almost the same as that supplied by Kind Bonding, I will only introduce data not mentioned above.

This company, which was Harris Bonding Company, did not issue bonds for people accused of crimes such as rape, treason and bazaar murders. The agent for this company showed me Supreme Court Cases that protect, guide, regulate and strengthened the bonding institution. Some were as follows: 1. Taylor vs Taintor; 2. Field vs United States; 3. United States vs Schneiderman; 4. Allison vs People; 5. United States vs Davis; 6. Stanton vs United States; and 7. United States vs Smaldone.⁶⁴

An interesting comment this particular agent made was concerning a pretrial federal release program. The purpose of this program is to provide federal funds for the poor. Few people are aware that this type of program exists and

⁶⁴ Some of the cases are presented in Chapter II.

no bondsman goes all out to make this information knowledgeable to those who can surely benefit from it.

Bailbonding is a big business and some of these bonding agents work for specialized insurance companies that write million of dollars worth of bonds a year. A bondsman can collect two or three times from the same defendant. This is because of the legal technicalities that require new bail to be posted each time a defendant appears before the court or on each count of the offenses he committed. Without a doubt the bondsmen surely reap the benefit from the bail system in the United States.

CHAPTER IV

FULTON COUNTY: A CASE STUDY

In this chapter, I will present raw data relating to the awarding of bail in Fulton County, Georgia. This data was obtained from the files of the Fulton County Jail during June of 1976. This bail study will encompass periods from 1974 through 1976.

Section A is composite data of bail by crimes. Next, Section B is a presentation of bail awarded by race and age. Section C is a presentation of bail awarded according to age and employment of defendants. The last section, Section D, is a presentation of bail awarded by sex.

After presenting the tables of composite data of the bail awarded, I will analyze each table. If the assertions in Chapter III are valid, namely, that of discriminatory practices in the administration of bails, then the findings in this chapter should support these assertions. If there exist any discrimination in Fulton County's Bail System, it should be apparent in the tables presented in this chapter.

SECTION A: COMPOSITE DATA OF BAIL, BY CRIMES
 Section A Tables 4-1: Theft by Taking

| | Sex | Race | Age | Occupation | Bail |
|-----|--------|-------|-----------|----------------------|------------|
| 1. | Female | White | 31 | Housewife | \$500.00 |
| 2. | Male | Black | 20 | Unemployed | \$500.00 |
| 3. | Male | White | 33 | Public Relations | \$300.00 |
| 4. | Male | Black | Not Given | Not Given | \$500.00 |
| 5. | Male | Black | 21 | Janitor | \$1,000.00 |
| 6. | Male | Black | 21 | Unemployed | \$1,000.00 |
| 7. | Female | White | 46 | Unemployed | \$500.00 |
| 8. | Female | White | 21 | Housewife | \$200.00 |
| 9. | Male | Black | 19 | Maintenance | \$100.00 |
| 10. | Male | White | 23 | General Motors | \$200.00 |
| 11. | Female | Black | 20 | Unemployed | \$500.00 |
| 12. | Male | White | 43 | Unemployed | \$400.00 |
| 13. | Male | Black | 22 | Unemployed | \$1,000.00 |
| 14. | Male | White | 18 | Television Repairman | \$300.00 |
| 15. | Female | White | 28 | Housewife | \$1,000.00 |
| 16. | Male | Black | 38 | Laborer | \$1,000.00 |
| 17. | Male | White | 21 | Laborer | \$300.00 |
| 18. | Female | White | 30 | Unemployed | \$200.00 |
| 19. | Female | White | 42 | Interior Decorator | \$100.00 |
| 20. | Male | White | 20 | Student | \$1,000.00 |
| 21. | Female | Black | 19 | Unemployed | \$1,000.00 |
| 22. | Female | White | 36 | Unemployed | \$50.00 |
| 23. | Male | White | 26 | Real Estate | \$500.00 |
| 24. | Female | Black | 19 | Unemployed | \$1,000.00 |
| 25. | Male | Black | 18 | Unemployed | \$500.00 |

Section A Table 4-2: Armed Robbery

| | Sex | Race | Age | Occupation | Bail |
|-----|------|-------|-----|-------------------------------------|-----------------|
| 1. | Male | Black | 19 | Welder | No Bail Granted |
| 2. | Male | Black | 15 | Unemployed | No Bail Granted |
| 3. | Male | White | 20 | Store Manager | No Bail Granted |
| 4. | Male | Black | 20 | District Manger of a Chain Store | No Bail Granted |
| 5. | Male | Black | 23 | Unemployed | No Bail Granted |
| 6. | Male | White | 32 | Laborer | No Bail Granted |
| 7. | Male | White | 21 | Painter | No Bail Granted |
| 8. | Male | Black | 17 | Unemployed | No Bail Granted |
| 9. | Male | White | 31 | Construction Worker | No Bail Granted |
| 10. | Male | Black | 20 | Maintenance | No Bail Granted |
| 11. | Male | Black | 20 | Truck Driver | \$10,000.00 |
| 12. | Male | White | 46 | Unemployed | No Bail Granted |
| 13. | Male | White | 20 | Unemployed | No Bail Granted |
| 14. | Male | Black | 23 | Laborer | No Bail Granted |
| 15. | Male | Black | 22 | Unemployed | No Bail Granted |
| 16. | Male | Black | 17 | Unemployed | No Bail Granted |
| 17. | Male | Black | 17 | Unemployed | No Bail Granted |
| 18. | Male | White | 20 | Truck Driver | No Bail Granted |
| 19. | Male | Black | 21 | X Ray Technician | No Bail Granted |
| 20. | Male | Black | 17 | Unemployed | No Bail Granted |
| 21. | Male | Black | 28 | Laborer | No Bail Granted |
| 22. | Male | Black | 22 | Unemployed | No Bail Granted |
| 23. | Male | White | 21 | Unemployed | No Bail Granted |
| 24. | Male | White | 31 | Unemployed | No Bail Granted |
| 25. | Male | Black | 19 | Unemployed | No Bail Granted |

Section A Table 4-3: Rape

| | Sex | Race | Age | Occupation | Bail |
|-----|------|-------|-----|--------------|-----------------|
| 1. | Male | Black | 18 | Unemployed | \$7,000.00 |
| 2. | Male | Black | 19 | Laborer | No Bail Granted |
| 3. | Male | Black | 23 | Maintenance | No Bail Granted |
| 4. | Male | Black | 17 | Unemployed | \$1,000.00 |
| 5. | Male | Black | 25 | Designer | \$1,000.00 |
| 6. | Male | Black | 22 | Army | \$1,000.00 |
| 7. | Male | Black | 15 | Student | \$1,000.00 |
| 8. | Male | White | 23 | Welder | \$1,000.00 |
| 9. | Male | Black | 27 | Construction | \$1,000.00 |
| 10. | Male | Black | 26 | Tailor | \$1,000.00 |

Section A Table 4-4: Murder

| | Sex | Race | Age | Occupation | Bail |
|-----|--------|-------|-----|----------------------|-----------------|
| 1. | Male | White | 36 | Tile Setter | No Bail Granted |
| 2. | Male | Black | 43 | Unemployed | No Bail Granted |
| 3. | Male | Black | 19 | Unemployed | No Bail Granted |
| 4. | Male | Black | 24 | Forklift Operator | No Bail Granted |
| 5. | Female | White | 24 | Secretary | No Bail Granted |
| 6. | Female | Black | 31 | Unemployed | No Bail Granted |
| 7. | Male | White | 38 | Truck Driver | No Bail Granted |
| 8. | Male | Black | 47 | Laborer | No Bail Granted |
| 9. | Male | Black | 39 | Unemployed | No Bail Granted |
| 10. | Male | Black | 28 | Automobile Repairman | \$10,000.00 |
| 11. | Male | Black | 39 | Landscaper | \$10,000.00 |
| 12. | Male | Black | 26 | Construction Worker | \$10,000.00 |
| 13. | Male | Black | 16 | Student | \$10,000.00 |
| 14. | Male | Black | 27 | Clerk | \$10,000.00 |
| 15. | Female | Black | 27 | None Listed | \$10,000.00 |
| 16. | Male | Black | 38 | Painter | \$10,000.00 |
| 17. | Male | White | 47 | None Listed | \$10,000.00 |
| 18. | Male | Black | 37 | Truck Driver | \$1,000.00 |
| 19. | Male | Black | 17 | Laborer | \$1,000.00 |
| 20. | Male | Black | 22 | Unemployed | \$1,000.00 |
| 21. | Male | White | 44 | Fireman | \$1,000.00 |
| 22. | Male | White | 51 | Automobile Mechanic | \$1,000.00 |
| 23. | Male | White | 24 | Construction Worker | \$1,000.00 |
| 24. | Male | Black | 23 | Laborer | \$1,000.00 |

Section A Table 4-5: Burglary

| | Sex | Race | Age | Occupation | Bail |
|------|--------|-------|-----|---------------------|-----------------|
| 1. | Male | Black | 34 | Forklift Operator | \$5,000.00 |
| 2. | Male | Black | 22 | Unemployed | No Bail Granted |
| 3. | Male | White | 18 | Unemployed | \$1,000.00 |
| 4. | Male | Black | 23 | Unemployed | \$5,000.00 |
| 5. | Male | Black | 17 | Construction Worker | \$5,000.00 |
| 6. | Male | White | 21 | Unemployed | \$3,000.00 |
| 7. | Male | Black | 23 | Maintenance | No Bail Granted |
| 8. | Male | Black | 21 | Unemployed | No Bail Granted |
| 9. | Male | Black | 20 | Sales | \$5,000.00 |
| 10. | Male | White | 18 | Carpenter | \$1,000.00 |
| 11. | Male | Black | 17 | None Listed | \$5,000.00 |
| 12. | Male | Black | 20 | None Listed | \$5,000.00 |
| 13. | Male | White | 37 | Plumber | \$500.00 |
| 14. | Male | White | 17 | Laborer | \$1,500.00 |
| 15. | Male | White | 17 | Laborer | \$1,500.00 |
| 16. | Male | Black | 27 | Truck Driver | \$2,500.00 |
| 17. | Male | Black | 18 | Unemployed | No Bail Granted |
| *18. | Female | White | 37 | Unemployed | No Bail Granted |
| 19. | Male | White | 38 | Unemployed | \$5,000.00 |
| 20. | Male | Black | 25 | Thief | \$5,000.00 |
| 21. | Male | White | 34 | Unemployed | \$1,500.00 |
| 22. | Male | Black | 32 | Unemployed | \$20,000.00 |
| 23. | Male | White | 23 | Self-Employed | \$1,000.00 |
| 24. | Male | White | 25 | Forklift Operator | \$3,000.00 |
| 25. | Male | White | 34 | Car Washer | \$4,000.00 |

*Three Counts

Section A Table 4-6: Prostitution

| | Sex | Race | Age | Occupation | Bail |
|------|--------|-------|-----------|------------------|------------|
| 1. | Female | White | Not Given | Not Given | \$1,000.00 |
| 2. | Female | Black | Not Given | Not Given | \$3,000.00 |
| 3. | Female | White | 22 | Unemployed | \$1,000.00 |
| 4. | Female | White | 22 | Self-Employed | \$1,000.00 |
| 5. | Female | Black | 22 | Unemployed | \$1,000.00 |
| 6. | Female | White | 20 | Waitress | \$2,000.00 |
| 7. | Female | White | 20 | Unemployed | \$1,000.00 |
| 8. | Female | Black | 19 | Unemployed | \$2,000.00 |
| 9. | Female | Black | 27 | Hair Stylist | \$5,000.00 |
| *10. | Female | Black | 27 | Hair Stylist | \$1,000.00 |
| 11. | Female | Black | 32 | Laborer | \$1,000.00 |
| 12. | Female | Black | 17 | Unemployed | \$500.00 |
| 13. | Female | Black | 22 | Unemployed | \$1,000.00 |
| 14. | Female | Black | 22 | Unemployed | \$4,000.00 |
| 15. | Female | White | 26 | Public Relations | \$1,000.00 |
| 16. | Female | White | 27 | Unemployed | \$1,000.00 |
| 17. | Female | White | 39 | Maid | \$2,000.00 |
| 18. | Female | White | 19 | Unemployed | \$1,000.00 |
| 19. | Female | White | 19 | Nurse's Aid | \$1,000.00 |
| 20. | Female | White | 21 | Dancer | \$1,000.00 |
| 21. | Female | White | 18 | Unemployed | \$1,000.00 |
| 22. | Female | Black | 25 | Not Given | \$1,000.00 |
| 23. | Female | Black | 22 | Unemployed | \$1,000.00 |
| 24. | Female | Black | 20 | Waitress | \$1,000.00 |
| 25. | Male | White | 18 | Carpenter | \$1,000.00 |

*Same Person as number nine, but two counts

The tables mentioned from this point will be drawn from tables 4-1 through 4-6 and are a duplicate of the same in them in some form. (See previous pages)

In viewing the tables in this chapter, one can clearly see that certain people are being victimized as a result of the administration of bail. Section B, which consists of Tables 4-7 through 4-18 has a listing of the bail awarded by race and age. At this point I will isolate the tables in Section B and discuss them.

Tables 4-7 and 4-8 deal with the crime theft by taking. The defendants in the table 4-7 are black and the defendants in table 4-8 are white. The defendants in table 4-7 have less income than the defendants in table 4-8. This can be surmised by inspecting the occupations of the defendants. Seven of the twelve defendants in table 4-7 are unemployed while the remaining five have jobs that provide for a very low pay scale as a janitor and a laborer. On the other hand, the defendants in table 4-8 have jobs that provide more income revenue for them.

The average age for the defendants in table 4-7 is 20.4 years of age vis-a-vis table 4-8 whose average is 30.0 years of age. Now take a look at the column of bail. Bail in table 4-7 averages out to \$833.00 per defendant. On the other hand bail for the defendants in 4-8 average to \$281.00, a difference of \$552.00 per defendant. Given that the black defendants in table 4-7 are either unemployed or underemployed,

their chances of raising the bail money are slim. Also they would fall under the bad risk category of the bondsmen. Consequently there is some likelihood that the bondsmen may not post their bond. Ultimately, the defendants end up in jail which further limits or restricts their means of raising the required bond money. Keep in mind that the average age of these defendants was 20.4 years. They are spending some of their most productive years behind bars because of their impoverished conditions. (See tables below)

SECTION B: BAIL AWARDED, BY RACE AND AGE
Section B Table 4-7: Theft by Taking (Blacks)

| | Age | Occupation | Bail |
|-----|-----------|-------------|------------|
| 1. | 20 | Unemployed | \$500.00 |
| 2. | Not Given | Not Given | \$500.00 |
| 3. | 21 | Janitor | \$100.00 |
| 4. | 21 | Unemployed | \$1,000.00 |
| 5. | 19 | Maintenance | \$1,000.00 |
| 6. | 20 | Unemployed | \$500.00 |
| 7. | 22 | Unemployed | \$1,000.00 |
| 8. | 28 | Housewife | \$1,000.00 |
| 9. | 38 | Laborer | \$1,000.00 |
| 10. | 19 | Unemployed | \$1,000.00 |
| 11. | 19 | Unemployed | \$1,000.00 |
| 12. | 18 | Unemployed | \$500.00 |

Section B Table 4-8: Theft by Taking
(Whites)

| | Age | Occupation | Bail |
|-----|-----|----------------------|------------|
| 1. | 31 | Housewife | \$500.00 |
| 2. | 33 | Public Relations | \$300.00 |
| 3. | 46 | Unemployed | \$500.00 |
| 4. | 21 | Housewife | \$200.00 |
| 5. | 23 | General Motors | \$200.00 |
| 6. | 43 | Unemployed | \$400.00 |
| 7. | 18 | Television Repairman | \$300.00 |
| 8. | 21 | Laborer | \$300.00 |
| 9. | 30 | Unemployed | \$200.00 |
| 10. | 42 | Interior Decorator | \$100.00 |
| 11. | 20 | Student | \$1,000.00 |
| 12. | 36 | Unemployed | \$50.00 |
| 13. | 26 | Real Estates | \$500.00 |

In table 4-9 and table 4-10, one could not draw the same conclusions as were drawn concerning tables 4-7 and 4-8. This is because the nature and consequences of the crimes are different. You can see the high rate of unemployment and the age variation, yet one cannot detect discrimination in the administering of bail. This because the crime in tables 4-9 and 4-10 is armed robbery and bail is not granted in this type case most of the time. If one wanted to find out if the

defendants were in fact discriminated against they would have to view the sentencing records of each defendant. (See tables below)

Section B Table 4-9: Armed Robbery
(Blacks)

| | Age | Occupation | Bail |
|-----|-----|--------------------------------|-----------------|
| 1. | 19 | Welder | No Bail Granted |
| 2. | 15 | Unemployed | No Bail Granted |
| 3. | 20 | District Manager of a Store | No Bail Granted |
| 4. | 23 | Unemployed | No Bail Granted |
| 5. | 17 | Unemployed | No Bail Granted |
| 6. | 20 | Maintenance | No Bail Granted |
| 7. | 20 | Truck Driver | \$10,000.00 |
| 8. | 23 | Laborer | No Bail Granted |
| 9. | 22 | Unemployed | No Bail Granted |
| 10. | 17 | Unemployed | No Bail Granted |
| 11. | 17 | Unemployed | No Bail Granted |
| 12. | 21 | X Ray Technician | No Bail Granted |
| 13. | 17 | Unemployed | No Bail Granted |
| 14. | 28 | Laborer | No Bail Granted |
| 15. | 22 | Unemployed | No Bail Granted |
| 16. | 19 | Unemployed | No Bail Granted |

Section B Table 4-10: Armed Robbery (Whites)

| | Age | Occupation | Bail |
|----|-----|---------------------|-----------------|
| 1. | 20 | Store Manager | No Bail Granted |
| 2. | 32 | Laborer | No Bail Granted |
| 3. | 21 | Painter | No Bail Granted |
| 4. | 31 | Construction Worker | No Bail Granted |
| 5. | 46 | Unemployed | No Bail Granted |
| 6. | 20 | Unemployed | No Bail Granted |
| 7. | 20 | Truck Driver | No Bail Granted |
| 8. | 21 | Unemployed | No Bail Granted |
| 9. | 31 | Unemployed | No Bail Granted |

The same holds true for rape and murder which are presented in tables 4-11 through 4-14. (See tables below)

Section B Table 4-11: Rape (Blacks)

| | Age | Occupation | Bail |
|----|-----|---------------------|-----------------|
| 1. | 18 | Unemployed | \$7,000.00 |
| 2. | 19 | Laborer | No Bail Granted |
| 3. | 23 | Maintenance | No Bail Granted |
| 4. | 17 | Unemployed | \$1,000.00 |
| 5. | 25 | Designer | No Bail Granted |
| 6. | 22 | Army | No Bail Granted |
| 7. | 15 | Student | No Bail Granted |
| 8. | 27 | Construction Worker | No Bail Granted |
| 9. | 26 | Tailor | No Bail Granted |

Section B Table 4-12: Rape (Whites)

| | Age | Occupation | Bail |
|----|-----|------------|-----------------|
| 1. | 23 | Welder | No Bail Granted |

Section B Table 4-13: Murder (Blacks)

| | Age | Occupation | Bail |
|-----|-----|----------------------|-----------------|
| 1. | 43 | Unemployed | No Bail Granted |
| 2. | 19 | Unemployed | No Bail Granted |
| 3. | 24 | Forklift Operator | No Bail Granted |
| 4. | 31 | Unemployed | No Bail Granted |
| 5. | 47 | Laborer | No Bail Granted |
| 6. | 39 | Unemployed | No Bail Granted |
| 7. | 28 | Automobile Repairman | \$10,000.00 |
| 8. | 39 | Landscaper | No Bail Granted |
| 9. | 26 | Construction Worker | No Bail Granted |
| 10. | 16 | Student | No Bail Granted |
| 11. | 23 | Clerk | No Bail Granted |
| 12. | 27 | None Listed | No Bail Granted |
| 13. | 38 | Painter | No Bail Granted |
| 14. | 37 | Truck Driver | No Bail Granted |
| 15. | 17 | Laborer | No Bail Granted |
| 16. | 22 | Unemployed | No Bail Granted |
| 17. | 23 | Laborer | No Bail Granted |

Section B Table 4-14: Murder (Whites)

| | Age | Occupation | Bail |
|----|-----|---------------------|-----------------|
| 1. | 36 | Tile Setter | No Bail Granted |
| 2. | 24 | Secretary | No Bail Granted |
| 3. | 38 | Truck Driver | No Bail Granted |
| 4. | 47 | None Listed | No Bail Granted |
| 5. | 44 | Fireman | No Bail Granted |
| 6. | 51 | Automobile Mechanic | No Bail Granted |
| 7. | 21 | Construction Worker | No Bail Granted |

However, one can see the disproportional number of blacks charged with those crimes as opposed to white. Sixteen of the twenty five armed robbers were black (see table 4-20), nine of the ten rapists were black (see table 4-3) and seventeen of the twenty five murderers were black (see table 4-4). This subsequently reflected in the fact that over three-fourths of the total inmate population at the Fulton County Jail are black folks.

Looking further at Section B (Bail awarded by race) and tables 4-15 and 4-16 in particular, one can see the same trend taking place as in table 4-7 and 4-8. The average age of the defendants in table 4-15 is 21.3 years of age, while the average is 27.4 years of age in table 4-16. The bail charged in the cases have a distinct difference also. The average amount of bail charged for the black defendants in table 4-15 was \$4,038.50 per defendant, with three defendants that were not granted bail. The average amount of bail charged for the white defendants (see table 4-16) was \$1,750 per defendant, with two defendants that were not granted bail. Therefore the difference in tables 4-15 and 4-16 in the age category is 5.1 years and in the difference in the amount of bail charged is \$2,288.50, a great variation indeed. (See table below)

Section B Table 4-15: Burglary (Blacks)

| | Age | Occupation | Bail |
|----|-----|-------------------|-----------------|
| 1. | 34 | Forklift Operator | \$5,000.00 |
| 2. | 22 | Unemployed | No Bail Granted |

Section B Table 4-15: Burglary (Blacks) continued

| | Age | Occupation | Bail |
|-----|-----|---------------------|-----------------|
| 3. | 23 | Unemployed | \$5,000.00 |
| 4. | 17 | Construction Worker | \$5,000.00 |
| 5. | 23 | Maintenance | No Bail Granted |
| 6. | 21 | Unemployed | No Bail Granted |
| 7. | 20 | Sales | \$5,000.00 |
| 8. | 17 | None Listed | \$5,000.00 |
| 9. | 20 | NOne Listed | \$5,000.00 |
| 10. | 27 | Truck Driver | \$2,500.00 |
| 11. | 18 | Unemployed | \$2,000.00 |
| 12. | 25 | Thief | \$5,000.00 |
| 13. | 32 | Unemployed | \$20,000.00 |

Section B Table 4-16 Burglary (Whites)

| | Age | Occupation | Bail |
|-----|-----|-------------------|-----------------|
| 1. | 18 | Unemployed | \$1,000.00 |
| 2. | 21 | Unemployed | \$3,000.00 |
| 3. | 18 | Carpenter | \$1,000.00 |
| 4. | 37 | Plumber | \$500.00 |
| 5. | 17 | Laborer | \$1,500.00 |
| 6. | 17 | Laborer | \$1,500.00 |
| 7. | 37 | Unemployed | No Bail Granted |
| 8. | 38 | Unemployed | No Bail Granted |
| 9. | 34 | Unemployed | \$1,500.00 |
| 10. | 23 | Self-Employed | \$1,000.00 |
| 11. | 25 | Forklift Operator | \$3,000.00 |
| 12. | 34 | Car Washer | \$4,000.00 |

The last tables in Section B concern prostitution. They are tables 4-17 and 4-18 respectively. (See tables below)

Section B Table 4-17: Prostitution (Blacks)

| | Age | Occupation | Bail |
|-----|-----------|--------------|------------|
| 1. | Not Given | Not Given | \$3,000.00 |
| 2. | 22 | Unemployed | \$1,000.00 |
| 3. | 19 | Unemployed | \$2,000.00 |
| 4. | 27 | Hair Stylist | \$500.00 |
| 5. | 27 | Hair Stylist | \$1,000.00 |
| 6. | 32 | Laborer | \$1,000.00 |
| 7. | 17 | Unemployed | \$500.00 |
| 8. | 22 | Unemployed | \$1,000.00 |
| 9. | 22 | Unemployed | \$4,000.00 |
| 10. | 39 | Maid | \$2,000.00 |
| 11. | 19 | Nurse's Aid | \$1,000.00 |
| 12. | 25 | Not Given | \$100.00 |
| 13. | 22 | Unemployed | \$1,000.00 |
| 14. | 20 | Waitress | \$1,000.00 |

Section B Table 4-18: Prostitution (Whites)

| | Age | Occupation | Bail |
|----|-----------|------------------|------------|
| 1. | Not Given | Not Given | \$1,000.00 |
| 2. | 22 | Unemployed | \$1,000.00 |
| 3. | 22 | Self-Employed | \$1,000.00 |
| 4. | 20 | Waitress | \$2,000.00 |
| 5. | 20 | Unemployed | \$1,000.00 |
| 6. | 26 | Public Relations | \$1,000.00 |

Section B Table 4-18: Prostitution (Whites) continued

| | Age | Occupation | Bail |
|-----|-----|------------|------------|
| 7. | 27 | Unemployed | \$1,000.00 |
| 8. | 19 | Unemployed | \$1,000.00 |
| 9. | 21 | Dancer | \$1,000.00 |
| 10. | 18 | Unemployed | \$1,000.00 |
| 11. | 18 | Carpenter | \$1,000.00 |

The average age of defendants in table 4-17 (who are black) is 22.3 years of age as compared to 19.4 years of age in table 4-18, a difference of 2.9 years of age. This time one can see that the whites are committing the crime of prostitution at an earlier age than blacks. The category of bail follows the same trend as bail in other crimes. It was higher for black defendants. The average amount charged for black defendants was \$1,721.40 per defendant and \$1,181.80 per defendant for the whites (see tables 4-17 and 4-18). It is then a difference of \$539.60.

In Section B, there is sufficient data to show that more black people than white people are victimized as a result of Fulton County's administration of bail. There is a direct parallel between the conclusions presented in Chapter III and the findings in this chapter. Black people were charged higher bail rates in all the cases studied when stratified according to race. In most cases, the bail, in comparison

with the defendants job, seemed excessively high. Thereby, denying the rights of the defendants as guaranteed by the Eighth and Fourteenth Amendments of the United States Constitution which states that bail should not be excessively high and guarantees equal protection of the laws respectively.

The next task of this research effort was to discover the relationship between bail rates and the poor. Tables 4-19 through 4-24 will be isolated to study this situation. (The reader can also refer back to tables 4-1, 4-5, and 4-6).

Table 4-1 and 4-19 show that out of twenty-five cases of theft by taking, eleven were enemployed. The average bail for the unemployed defendant was \$604.50 per defendant as opposed to \$522.20 for the employed persons. Now take a look at table 4-1 and compare the average bail for the higher paying jobs as compared to the lower paying jobs (in table 4-1, Public Relations, Interior Decorator, Real Estate and General Motors are considered the higher paying jobs). The average amount of bail charged per defendant in the higher paying jobs was \$250.00, as compared to \$720.00 per defendant in the lower paying job such as janitor, maintenance and laborer.

The same held true in case of burglary (see tables 4-5 and 4-23). The unemployed also had more cases in which no bail was granted (see table 4-5).

SECTION C: BAIL AWARDED BY EMPLOYMENT AND AGE

Section C Table 4-19: Theft by Taking

| | Age | Occupation | Bail |
|-----|-----|----------------------|------------|
| 1. | 20 | Unemployed | \$500.00 |
| 2. | 21 | Unemployed | \$1,000.00 |
| 3. | 46 | Unemployed | \$500.00 |
| 4. | 20 | Unemployed | \$500.00 |
| 5. | 43 | Unemployed | \$400.00 |
| 6. | 22 | Unemployed | \$1,000.00 |
| 7. | 30 | Unemployed | \$200.00 |
| 8. | 19 | Unemployed | \$1,000.00 |
| 9. | 36 | Unemployed | \$500.00 |
| 10. | 19 | Unemployed | \$1,000.00 |
| 11. | 18 | Unemployed | \$500.00 |
| 12. | 33 | Public Relations | \$300.00 |
| 13. | 21 | Janitor | \$1,000.00 |
| 14. | 19 | Maintenance | \$1,000.00 |
| 15. | 23 | General Motors | \$200.00 |
| 16. | 18 | Television Repairman | \$300.00 |
| 17. | 38 | Laborer | \$1,000.00 |
| 18. | 21 | Laborer | \$300.00 |
| 19. | 42 | Interior Decorator | \$100.00 |
| 20. | 26 | Real Estate | \$500.00 |

Section C Table 4-20: Armed Robbery

| | Age | Occupation | Bail |
|-----|-----|--------------------------------------|-----------------|
| 1. | 15 | Unemployed | No Bail Granted |
| 2. | 23 | Unemployed | No Bail Granted |
| 3. | 17 | Unemployed | No Bail Granted |
| 4. | 46 | Unemployed | No Bail Granted |
| 5. | 20 | Unemployed | No Bail Granted |
| 6. | 22 | Unemployed | No Bail Granted |
| 7. | 17 | Unemployed | No Bail Granted |
| 8. | 17 | Unemployed | No Bail Granted |
| 9. | 17 | Unemployed | No Bail Granted |
| 10. | 22 | Unemployed | No Bail Granted |
| 11. | 21 | Unemployed | No Bail Granted |
| 12. | 31 | Unemployed | No Bail Granted |
| 13. | 19 | Unemployed | No Bail Granted |
| 14. | 19 | Welder | No Bail Granted |
| 15. | 20. | Store Manager | No Bail Granted |
| 16. | 20 | District Manager of a Chain Store | No Bail Granted |
| 17. | 32 | Laborer | No Bail Granted |
| 18. | 21 | Painter | No Bail Granted |
| 19. | 31 | Construction Worker | No Bail Granted |
| 20. | 20 | Maintenance | No Bail Granted |
| 21. | 20 | Truck Driver | \$10,000.00 |
| 22. | 23 | Laborer | No Bail Granted |
| 23. | 20 | Truck Driver | No Bail Granted |
| 24. | 21 | X Ray Technician | No Bail Granted |
| 25. | 28 | Laborer | No Bail Granted |

Section C Table 4-21: Rape

| | Age | Occupation | Bail |
|----|-----|---------------------|-----------------|
| 1. | 18 | Unemployed | \$7,000.00 |
| 2. | 17 | Unemployed | \$1,000.00 |
| 3. | 19 | Laborer | No Bail Granted |
| 4. | 23 | Maintenance | No Bail Granted |
| 5. | 25 | Designer | No Bail Granted |
| 6. | 22 | Army | No Bail Granted |
| 7. | 23 | Welder | No Bail Granted |
| 8. | 27 | Construction Worker | No Bail Granted |
| 9. | 26 | Tailor | No Bail Granted |

Section C Table 4-22: Murder

| | Age | Occupation | Bail |
|-----|-----|----------------------|-----------------|
| 1. | 43 | Unemployed | No Bail Granted |
| 2. | 19 | Unemployed | No Bail Granted |
| 3. | 31 | Unemployed | No Bail Granted |
| 4. | 39 | Unemployed | No Bail Granted |
| 5. | 22 | Unemployed | No Bail Granted |
| 6. | 36 | Tile Setter | No Bail Granted |
| 7. | 24 | Forklift Operator | No Bail Granted |
| 8. | 24 | Secretary | No Bail Granted |
| 9. | 38 | Truck Driver | No Bail Granted |
| 10. | 47 | Laborer | No Bail Granted |
| 11. | 28 | Automobile Repairman | \$10,000.00 |
| 12. | 39 | Landscaper | No Bail Granted |

Section C Table 4-22: Murder (continued)

| | Age | Occupation | Bail |
|-----|-----|---------------------|-----------------|
| 13. | 26 | Construction Worker | No Bail Granted |
| 14. | 23 | Clerk | No Bail Granted |
| 15. | 38 | Painter | No Bail Granted |
| 16. | 37 | Truck Driver | \$1,000.00 |
| 17. | 17 | Laborer | No Bail Granted |
| 18. | 44 | Fireman | No Bail Granted |
| 19. | 51 | Automobile Mechanic | No Bail Granted |
| 20. | 24 | Construction Worker | No Bail Granted |
| 21. | 23 | Laborer | No Bail Granted |

Section C Table 4-23: Burglary

| | Age | Occupation | Bail |
|-----|-----|---------------------|-----------------|
| 1. | 22 | Unemployed | No Bail Granted |
| 2. | 18 | Unemployed | \$1,000.00 |
| 3. | 23 | Unemployed | \$5,000.00 |
| 4. | 21 | Unemployed | \$3,000.00 |
| 5. | 21 | Unemployed | No Bail Granted |
| 6. | 18 | Unemployed | \$2,000.00 |
| 7. | 37 | Unemployed | No Bail Granted |
| 8. | 38 | Unemployed | No Bail Granted |
| 9. | 34 | Unemployed | \$1,500.00 |
| 10. | 32 | Unemployed | \$20,000.00 |
| 11. | 34 | Forklift Operator | \$5,000.00 |
| 12. | 17 | Construction Worker | \$5,000.00 |
| 13. | 23 | Maintenance | No Bail Granted |

Section C Table 4-23: Burglary (continued)

| | Age | Occupation | Bail |
|-----|-----|-------------------|------------|
| 14. | 20 | Sales | \$5,000.00 |
| 15. | 18 | Carpenter | \$1,000.00 |
| 16. | 37 | Plumber | \$500.00 |
| 17. | 17 | Laborer | \$1,500.00 |
| 18. | 17 | Laborer | \$1,500.00 |
| 19. | 27 | Truck Driver | \$2,500.00 |
| 20. | 25 | Thief | \$5,000.00 |
| 21. | 23 | Self-Employed | \$1,000.00 |
| 22. | 25 | Forklift Operator | \$3,000.00 |
| 23. | 24 | Car Wash | \$4,000.00 |

Section C Table 4-24: Prostitution

| | Age | Occupation | Bail |
|-----|-----|------------|------------|
| 1. | 22 | Unemployed | \$1,000.00 |
| 2. | 22 | Unemployed | \$1,000.00 |
| 3. | 20 | Unemployed | \$1,000.00 |
| 4. | 19 | Unemployed | \$2,000.00 |
| 5. | 17 | Unemployed | \$500.00 |
| 6. | 22 | Unemployed | \$1,000.00 |
| 7. | 22 | Unemployed | \$4,000.00 |
| 8. | 27 | Unemployed | \$1,000.00 |
| 9. | 19 | Unemployed | \$1,000.00 |
| 10. | 18 | Unemployed | \$1,000.00 |
| 11. | 22 | Unemployed | \$1,000.00 |

Section C Table 4-24: Prostitution(continued)

| | Age | Occupation | Bail |
|-----|-----|------------------|------------|
| 13. | 20 | Waitress | \$2,000.00 |
| 14. | 27 | Hair Stylist | \$500.00 |
| 15. | 27 | Hair Stylist | \$1,000.00 |
| 16. | 32 | Laborer | \$1,000.00 |
| 17. | 26 | Public Relations | \$1,000.00 |
| 18. | 39 | Maid | \$2,000.00 |
| 19. | 19 | Nurse's Aid | \$1,000.00 |
| 20. | 21 | Dancer | \$1,000.00 |
| 21. | 20 | Waitress | \$1,000.00 |
| 22. | 18 | Carpenter | \$1,000.00 |

The data collected on prostitution was about the same as the others. The average amount of bail charged for an unemployed defendant was \$1,316.30 as opposed to \$1,090.90 for defendants having jobs. Yet if one takes a closer look at table 4-6, one could see that defendants with lower paying jobs such as maids and waitresses were charged more money than those defendants in the higher paying jobs. (See table 4-6)

Without a doubt, this data demonstrates that the unemployed and the poor are victimized by the administration of bail in Fulton County. In the cases of the unemployed, any amount of bail set would be excessive, yet the appropriate data show that the bail of such defendant is higher

than other defendants. Then there are the people in the lower paying jobs whose bail is also generally higher. They have jobs and ties in the community, yet their bail is comparatively high. The people who can afford to pay bail are charged the least amount.

Another interesting point that this research effort discovered was the fact that men pay higher bail than women. (See tables 4-25 through 4-30). The rationale for this phenomenon remains unclear but the data shows it with consistency. The data shows that Fulton County discriminates against blacks, men and poor people. The disheartening fact is that the men and poor people are also black.

SECTION D: BAIL AWARDED, BY SEX

Section D Table 4-25: Theft by Taking

| Male - Bail | | Female - Bail | |
|-------------|------------|---------------|------------|
| 1. | \$500.00 | 1. | \$500.00 |
| 2. | \$300.00 | 2. | \$500.00 |
| 3. | \$500.00 | 3. | \$200.00 |
| 4. | \$1,000.00 | 4. | \$500.00 |
| 5. | \$1,000.00 | 5. | \$1,000.00 |
| 6. | \$1,000.00 | 6. | \$200.00 |
| 7. | \$200.00 | 7. | \$100.00 |
| 8. | \$400.00 | 8. | \$1,000.00 |
| 9. | \$1,000.00 | 9. | \$500.00 |
| 10. | \$300.00 | 10. | \$1,000.00 |

Section D Table 4-25: Theft by Taking

| | Male - Bail | Female - Bail |
|-----|-------------|---------------|
| 11. | \$1,000.00 | |
| 12. | \$300.00 | |
| 13. | \$500.00 | |
| 14. | \$500.00 | |

Section D Table 4-26: Armed Robbery

| | Male - Bail | Female - Bail |
|-----|-----------------|--------------------------|
| 1. | No Bail Granted | 1. No Charge Recorded |
| 2. | No Bail Granted | |
| 3. | No Bail Granted | |
| 4. | No Bail Granted | |
| 5. | No Bail Granted | |
| 6. | No Bail Granted | |
| 7. | No Bail Granted | |
| 8. | No Bail Granted | |
| 9. | No Bail Granted | |
| 10. | No Bail Granted | |
| 11. | \$10,000.00 | |
| 12. | No Bail Granted | |
| 13. | No Bail Granted | |
| 14. | No Bail Granted | |
| 15. | No Bail Granted | |
| 16. | No Bail Granted | |
| 17. | No Bail Granted | |
| 18. | No Bail Granted | |
| 19. | No Bail Granted | |
| 20. | No Bail Granted | |
| 21. | No Bail Granted | |
| 22. | No Bail Granted | |
| 23. | No Bail Granted | |
| 24. | No Bail Granted | |
| 25. | No Bail Granted | |

Section D Table 4-27: Rape

| Male - Bail | Female - Bail |
|---------------------|--------------------------|
| 1. \$7,000.00 | 1. No Charge Recorded |
| 2. No Bail Granted | |
| 3. No Bail Granted | |
| 4. \$1,000.00 | |
| 5. No Bail Granted | |
| 6. No Bail Granted | |
| 7. No Bail Granted | |
| 8. No Bail Granted | |
| 9. No Bail Granted | |
| 10. No Bail Granted | |

Section D Table 4-28: Murder

| Male - Bail | Female - Bail |
|--------------------|--------------------|
| 1. No Bail Granted | 1. No Bail Granted |
| 2. No Bail Granted | 2. No Bail Granted |
| 3. No Bail Granted | 3. No Bail Granted |
| 4. No Bail Granted | |
| 5. No Bail Granted | |

Section D Table 4-28: Murder (continued)

| | Male - Bail | Female - Bail |
|-----|-----------------|---------------|
| 6. | No Bail Granted | |
| 7. | No Bail Granted | |
| 8. | No Bail Granted | |
| 9. | No Bail Granted | |
| 10. | \$10,000.00 | |
| 11. | No Bail Granted | |
| 12. | No Bail Granted | |
| 13. | No Bail Granted | |
| 14. | No Bail Granted | |
| 15. | No Bail Granted | |
| 16. | No Bail Granted | |
| 17. | \$1,000.00 | |
| 18. | No Bail Granted | |
| 19. | No Bail Granted | |
| 20. | No Bail Granted | |
| 21. | No Bail Granted | |

Section D Table 4-29: Burglary

| | Male - Bail | Female - Bail |
|----|-----------------|---------------------|
| 1. | \$5,000.00 | *1. No Bail Granted |
| 2. | No Bail Granted | |
| 3. | \$1,000.00 | |
| 4. | \$5,000.00 | |
| 5. | \$5,000.00 | |

Section D Table 4-29: Burglary (continued)

| | Male - Bail | Female - Bail |
|-----|-----------------|---------------|
| 6. | \$3,000.00 | |
| 7. | No Bail Granted | |
| 8. | No Bail Granted | |
| 9. | \$5,000.00 | |
| 10. | \$1,000.00 | |
| 11. | \$5,000.00 | |
| 12. | \$5,000.00 | |
| 13. | \$5,000.00 | |
| 14. | \$1,500.00 | |
| 15. | \$1,500.00 | |
| 16. | \$2,500.00 | |
| 17. | \$2,000.00 | |
| 18. | No Bail Granted | |
| 19. | \$5,000.00 | |
| 20. | \$1,500.00 | |
| 21. | \$20,000.00 | |
| 22. | \$1,000.00 | |
| 23. | \$3,000.00 | |
| 24. | \$4,000.00 | |

*Three Counts

Section D Table 4-30: Prostitution

| Male - Bail | | Female - Bail | |
|-------------|------------|---------------|------------|
| 1. | \$1,000.00 | 1. | \$1,000.00 |
| | | 2. | \$3,000.00 |
| | | 3. | \$1,000.00 |
| | | 4. | \$1,000.00 |
| | | 5. | \$1,000.00 |
| | | 6. | \$2,000.00 |
| | | 7. | \$1,000.00 |
| | | 8. | \$2,000.00 |
| | | 9. | \$500.00 |
| | | 10. | \$1,000.00 |
| | | 11. | \$1,000.00 |
| | | 12. | \$500.00 |
| | | 13. | \$1,000.00 |
| | | 14. | \$4,000.00 |
| | | 15. | \$1,000.00 |
| | | 16. | \$1,000.00 |
| | | 17. | \$2,000.00 |
| | | 18. | \$1,000.00 |
| | | 19. | \$1,000.00 |
| | | 20. | \$1,000.00 |
| | | 21. | \$1,000.00 |
| | | 22. | \$1,000.00 |
| | | 23. | \$1,000.00 |
| | | 24. | \$1,000.00 |

After gathering the data displayed in the tables in Chapter four, I arranged a series of interviews with judges, bondsmen and lawyers to probe for attitudes that might account for the differentials discovered in the administration of bail in Fulton County.¹ A sample of the questionnaire and results for each question are displayed in the appendix.

At the outset, this study stated that bail was not constitutionally guaranteed yet the majority of the respondents stated that bail was a right and not a privilege. Also they felt that income should have nothing to do with the amount of bail a defendant has to pay. Instead the crime the defendant is charged with should be the sole determining factor in setting bail. This fact is one of the reasons many poor people are left in jail before trial simply because bail was set out of their economic means. Yet, repeatedly the respondents said that poor people are not discriminated against.

Another interesting bit of information that derived from the interviews was concerning the acquittal of defendants detained before trials as opposed to those defendants obtaining pretrial release. All the judges interviewed stated that pretrial release did not have any

¹The interviews took place during August 1976. Each person was given a questionnaire to respond to which generated further discussions.

effect on the outcome of the trial. Yet nine of ten lawyers interviewed responded adversely to that notion. It was the opinion of these lawyers that pretrial release was a positive factor in acquiring a defendant's acquittal and the rationale of the lawyers for this opinion was that a defendant obtaining pretrial release could help prepare a better defense for his case.

The bondsmen were reluctant to respond to the above issue. They did, however, express the desire for a defendant to be able to secure a pretrial release. Of course they would benefit if they posted the necessary bond.

Ninety-seven percent of the lawyers, bondsmen and judges interviewed stated that the only purpose of bail was to assure that the defendant appeared for court. (See Appendix). There were some respondents who thought that bail had usages other than for the defendant's appearance. Among those other purposes stated were the protective measure, (for jurors and witnesses from hostile defendants), and one judge stated an economic purpose of bail. It was his belief that the purpose of bail was to permit the defendant to get back on the streets so he could continue to work to support his family so that the defendant nor his family would be a burden to the taxpayers.²

²This response was given by a judge of the Atlanta Criminal Court. His name and all other names will not be given at the request of the respondents.

While the majority of the respondents expressed a need for change in the present bail system, no one stated what that change should be or how that change should be brought about. Most respondents felt blacks and other minorities were not discriminated against through the administration of bail. Yet the tables in this chapter prove them wrong in that assumption. Even though the respondents did not want to see the bonding institution demolished, they expressed desires to see more releases on one's own recognizance, especially those defendants who have economic and social roots in the community in which they live.

Although many of the respondents did not feel that the bail system was slowly being taken over by organized crimes, a small percentage felt that some members of the criminal justice system received kickbacks from bondsmen for providing business for them.

These interviews were with key personnel in the bail system of Fulton County. They failed to find discriminatory practices in the bail system although discrimination is clearly evident in the data. The tables in the beginning of this chapter are ample evidence of discrimination, whether it is intentional or not.

CONCLUSION AND ALTERNATIVES

The present bail system does not provide equal protection of the laws as guaranteed by the Fourteenth Amendment of the United States Constitution and is strict with defendants that are not threat to society. On the other hand, there exist laxity in the administration of bail for those people who have the financial means necessary to acquire bail. Defendants having organized crime connections, dope pushers and hard core criminals, the real problem creators, seem to have a better chance for pretrial release because of their easy access to money. Once they obtain pretrial release, more than likely, the crime cycle will begin again.

The system of bail administered in the American courts burdens the defendants with limited economic means. This prevails because the bail system depends mainly on money to secure the presence of the defendant for trial. Relying solely on money endangers the effectiveness of the bail system and may even fail to provide the most effective deterrence of non-appearance by accused defendants. Poor people are denied pretrial release because of nothing more than their state of poverty.

The families of these defendants are caught in this ordeal also. This occurs because often the accused defendants

are bread winners for their entire family. Their being behind bars cuts off their earning capacity abruptly. Thus the family often has to acquire some type of public assistance in the form of welfare, which comes from the pockets of taxpayers.

This same type of phenomenon is perpetrated in Fulton County, Georgia through the administration of bail. The data show that men, blacks and poor people are discriminated against in Fulton County as a result of the present means of administering bail. Tables 4-1, 4-6, 4-19, 4-23, and 4-24 show that poor people are charged more money for bail than people with a reasonable amount of income. The above named tables will also give evidence that the majority of those discriminated against are black.

Bondsmen are in the background reaping the monetary benefits. In fact, the literature shows that the bondsmen are the primary profiteers from the administration of bail. The bonding institutions put up their money for defendants that are charged with a crime and desire their services. The only thing that is required of a defendant is to appear for trial proceedings and the bondsmen can obtain all the money they put up in behalf of the defendant. However, the defendant will not get any of his money back if he acquired the services of the bondsmen.

While the present bail system does not meet the needs of all the people, a great majority of the people in the

criminal justice system are content with the money bail system. The interviews with the lawyers, judges and bondsmen further reinforced this belief. The disappointing thing is these judges, lawyers and bondsmen are continuously overlooking the facts that people are being oppressed as a result of the administration of bail and that a change is definitely in order.

One alternative to money bail is releasing a person on his own recognizance. This will eliminate the high cost bondsmen charge and at the same time help people with limited income. Cobb County, Georgia has initiated a program similar to this and according to a former staff worker, that system is working so well that plans are underway to put that program into action in Atlanta and Fulton County.¹

The basic benefits from this type of plan are quite simple. The defendant is not detained before his trial and is thus allowed to maintain his job and support of his family. In a system such as this, the defendant must have community ties or own his home or convince the authorities that he will appear before the court at the designated time.

¹This information was given by the director of the task force who is trying to set up the program in Fulton County, Georgia. It was brought to my attention that the former staff worker of the Cobb County program will supervise the Fulton County program.

The poor and black people would benefit greatly from this system of bail in which one can be released on personal recognizance. It eliminates the money factor that usually cause the poor defendant to be jailed before his trial. This type system would be functional in misdemeanors and lesser crimes and as a result would be a means of relieving the over crowded conditions in the jails.

The release on personal recognizance is similar to the Vera Foundation which was founded by Louis Schweitzer and named for his mother. This program was a bail free project for people charged with petty offenses.

It was discovered by the Vera Foundation that every time a defendant is released before trial, \$120.00 a day was saved by New York City. On the other hand, it only cost the Vera Foundation \$13.00 which was for processing procedures.

In one study of 1,800 defendants released through the Vera Foundation, without posting bond, only 14 defendants did not appear for trial.² This figure is remarkable given the ratio of defendants that appeared for court as opposed to those that did not appear. Those defendants released through the Vera Foundation are reminded of their court date by telephone calls.

²U. S. Congressional Record 87th Congress, May 14, 1964, 10515-16.

The results of the Vera Foundation is proof that money is not always the best inducement for a defendant's appearance for court. The operation of money bail is an example of institutional subordination of non-whites and has been legitimized through the criminal justice system. The efforts of the Vera Foundation have, in fact, saved taxpayers money and guarded the defendants from the humiliation of being detained in jail before the trial.

Therefore a nationwide adoption of the "Vera Plan" is a very viable alternative to combat the injustices of the present bail system. A need for structural change in the present system is urgent if every man, regardless to race, creed, belief or color, is to receive equal protection of the laws. Hopefully the change will eliminate the injustices of the bail system in Fulton County, Georgia, and in the United States as a whole.

APPENDICES

APPENDIX A: QUESTIONNAIRE

Directions: Please place a check (✓) in the box that best suit your desired response. Reach each statment carefully and then answer all of the statements.

1. Bail is a privilege and not a right.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

2. Bail should not be any higher than the individual can afford.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

3. Bail should not be given to poor people because they are apt to skip town.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

4. Bail for Civil Rights demonstrators of the 1960 decade was higher than necessary.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

5. Bail for Civil Rights activists should be higher than the average man on the street.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

6. Bail is used to assure the defendant will appear in court.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

7. Bail has other usages besides assuring the appearance of defendants in court.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

Appendix A (continued)

8. The bail system benefits only Bondsmen.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

9. People who have roots in a community should be released on their own recognizance.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

10. The bail system is slowly being taken over by organized crime.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

11. Some members of the Criminal Justice System receive "kickbacks" from Bondsmen as a result of providing business for them.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

12. Bail is sometimes used as a tool of oppressssion directed against blacks and other minorities.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

13. The present bail system needs to be reorganized.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

14. I am satisfied with the present bail system.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

15. People out on bail stand a better chance of being acquitted than people that were not awarded pretrail release.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | a | 3 | 4 |

16. There should exist a universal bail scale for specific crimes.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

Appendix A. (continued)

17. Second offenders should be denied bail.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

18. Bail Bondsmen should be eliminated all together.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

19. Bail should be based upon the charge and financial status of the defendant.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

20. Third Parties should not put their property up as bond.

| | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

APPENDIX B

QUESTIONS AND RESULTS OF THE TWENTY-FIVE RESPONDENTS

1. Bail is a privilege and not a right.
Strongly Agree..... 1
Agree..... 8
Disagree..... 3
Strongly Disagree.....13
2. Bail should not be any higher than the individual can afford.
Strongly Agree..... 5
Agree..... 6
Disagree..... 7
Strongly Disagree..... 6
3. Bail should not be given to poor people because they are apt to skip town.
Strongly Agree..... 0
Agree..... 0
Disagree..... 7
Strongly Disagree.....18
4. Bail for Civil Rights demonstrators of the 1960 decade was higher than necessary.
Strongly Agree..... 3
Agree..... 8
Disagree..... 4
Strongly Disagree..... 2
5. Bail for Civil Rights activists should be higher than the average man on the street.
Strongly Agree..... 0
Agree..... 0
Disagree.....14
Strongly Disagree.....11

Appendix B (continued)

6. Bail is used to assure the defendant will appear in court.
- | | |
|------------------------|----|
| Strongly Agree..... | 8 |
| Agree..... | 16 |
| Disagree..... | 1 |
| Strongly Disagree..... | 0 |
7. Bail has other usage besides assuring the appearance of defendants in court.
- | | |
|------------------------|----|
| Strongly Agree..... | 2 |
| Agree..... | 10 |
| Disagree..... | 10 |
| Strongly Disagree..... | 2 |
8. The bail system benefits only Bondsmen.
- | | |
|------------------------|----|
| Strongly Agree..... | 3 |
| Agree..... | 0 |
| Disagree..... | 14 |
| Strongly Disagree..... | 7 |
9. People who have roots in a community should be released on their own recognizance no matter what their financial circumstances are.
- | | |
|------------------------|----|
| Strongly Agree..... | 3 |
| Agree..... | 11 |
| Disagree..... | 8 |
| Strongly Disagree..... | 3 |
10. The bail system is slowly being taken over by organized crime.
- | | |
|------------------------|----|
| Strongly Agree..... | 2 |
| Agree..... | 2 |
| Disagree..... | 11 |
| Strongly Disagree..... | 5 |
11. Some members of the Criminal Justice System receive "kickbacks" from bondsmen as a result of providing business for them.
- | | |
|------------------------|---|
| Strongly Agree..... | 1 |
| Agree..... | 5 |
| Disagree..... | 9 |
| Strongly Disagree..... | 5 |

Appendix B (continued)

12. Bail is sometimes used as a tool of oppression directed against blacks and other minorities.
- | | |
|------------------------|---|
| Strongly Agree..... | 3 |
| Agree | 8 |
| Disagree..... | 7 |
| Strongly Disagree..... | 4 |
13. The present bail systems need to be organized.
- | | |
|------------------------|----|
| Strongly Agree..... | 7 |
| Agree..... | 12 |
| Disagree..... | 4 |
| Strongly Disagree..... | 0 |
14. I am satisfied with the present bail system.
- | | |
|------------------------|----|
| Strongly Agree..... | 0 |
| Agree..... | 6 |
| Disagree..... | 11 |
| Strongly Disagree..... | 8 |
15. People out on bail stand a better chance of being acquitted than people that were not awarded pretrial release.
- | | |
|------------------------|----|
| Strongly Agree..... | 2 |
| Agree..... | 11 |
| Disagree..... | 10 |
| Strongly Disagree..... | 2 |
16. There should exist a universal bail scale for specific crimes throughout the United States.
- | | |
|------------------------|---|
| Strongly Agree | 8 |
| Agree..... | 9 |
| Disagree..... | 5 |
| Strongly Disagree..... | 3 |
17. Second offenders should be denied bail.
- | | |
|------------------------|----|
| Strongly Agree..... | 2 |
| Agree | 2 |
| Disagree..... | 17 |
| Strongly Disagree..... | 5 |

Appendix B (continued)

18. Bail bondsmen should be eliminated all together.
- | | |
|------------------------|----|
| Strongly Agree..... | 0 |
| Agree..... | 1 |
| Disagree..... | 19 |
| Strongly Disagree..... | 5 |
19. Bail should be based upon the charge and financial status of the defendant.
- | | |
|------------------------|----|
| Strongly Agree..... | 2 |
| Agree | 10 |
| Disagree..... | 10 |
| Strongly Disagree..... | 2 |
20. Third parties should not put their property up as bond.
- | | |
|------------------------|----|
| Strongly Agree..... | 0 |
| Agree..... | 2 |
| Disagree..... | 17 |
| Strongly Disagree..... | 5 |

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